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**Sustainable development: implementation of Agenda 21, the
Programme for the Further Implementation of Agenda 21
and the outcomes of the World Summit on Sustainable
Development and the United Nations Conference on
Sustainable Development**

**International Decade for Action, "Water for Life",
2005-2015, and further efforts to achieve the sustainable
development of water resources**

Report of the Secretary-General

Summary

In its resolution 58/217 of 23 December 2003, the General Assembly decided that, in order to meet the commitments on water-related goals and targets, as formulated and agreed in international forums, as well as under the Millennium Development Goals and the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation), and raise the profile of water for both Member States and stakeholders, it was necessary to declare an International Decade for Action, "Water for Life", 2005-2015. The Decade commenced on 22 March 2005 in conjunction with World Water Day, its aim being to promote a larger focus on water-related issues at all levels and on the implementation of water-related programmes and projects, while striving to ensure the participation and involvement of women in water-related development efforts, and the furtherance of cooperation at all levels. In the same resolution, the Assembly called upon the United Nations system and its partners to coordinate activities and actions to achieve the Decade's goals.

* A/71/150.



Pursuant to a series of activities and achievements noteworthy for their richness and diversity and with the Decade drawing to a close, the General Assembly, in its resolution 69/215 of 19 December 2014, requested the Secretary-General to report to the Assembly at its seventy-first session on the evaluation of the Decade, highlighting its successes, lessons learned and recommendations for the future.

The present report outlines the activities that have been carried out through the Decade, the elements and organizations that were key to its success and the key findings, to be taken into consideration within the context of future United Nations-related activities directed towards the promotion and implementation of internationally agreed goals and targets associated with water.

I. Introduction

1. The phrase "Water is life" is commonly used in speeches on water. It is the foundation of the response to the question why water is important to humans and the society and the environment in which they reside. Focus on water as a political issue can be traced back to the Mar de la Plata Action Plan, adopted in 1977,¹ followed by the International Drinking Water Supply and Sanitation Decade, covering the period from 1981 to 1990. In 1992, at the United Nations Conference on Environment and Development, world leaders dedicated an entire chapter to water in Agenda 21,² the main outcome document of the Conference, including identification of freshwater resources as an essential component of the Earth's hydrosphere and as an indispensable part of all terrestrial ecosystems. Increasingly, the role of water including its cross-cutting nature garnered support in both the advocacy and policymaking spheres, while important decisions in follow-up to chapter 18 of Agenda 21 were also made within the context of the Commission on Sustainable Development

2. With the growth of populations, the increasing movement of people to cities, the taking hold of climate change and the occurrence of land-use changes due to changes in economic development, the need to sustainably manage water resources became critical. Public and political awareness of the importance of water for so many of life's needs (related, e.g., to food, energy, health, habitat, transportation, ecosystems and recreation) gained traction and generated a sense of urgency which led to the adoption of the Millennium Development Goals in 2000 and new commitments associated with the adoption of the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation)³ in 2002. In 2003, taking the impetus gained from the successful International Year of Freshwater, Member States agreed to launch an entire decade dedicated to raising the awareness of water and improved implementation of water projects and programmes. Efforts were to be made to focus attention on water and to fill gaps so that the subject of water would be addressed in ways that supported sustainable development. Hence the International Decade for Action, "Water for Life", 2005-2015, was born, recognizing that water not only is life, but is also required for support of the many pillars that uphold life.

3. At the end of 2015, the "Water for Life" Decade came to a close after its active promotion by a broad range of governmental and non-governmental stakeholders and organizations, including the United Nations system, through which the place of water in the political agenda was successfully raised. What follows is a review of the initiatives that contributed to the efforts responsible for the success of the Decade.

¹ *Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977* (United Nations publication, Sales No. E.77.II.A.12 and corrigendum), chap. I. Available at http://www.internationalwaterlaw.org/bibliography/UN/Mar_del_Plata_Report.pdf.

² *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, vol. I, *Resolutions Adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution I, annex II, chap. 18.

³ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

II. Background

4. While water has always been a crucial resource, its importance for society and the planet has been undervalued. Acknowledgement of this fact can be traced back to the United Nations Conference on Environment and Development, held in Rio de Janeiro, Brazil, in 1992. As noted, an entire chapter of actions was dedicated to water in Agenda 21, which launched water on its long path towards gaining the attention of decision makers worldwide.

5. In 2000, furthering decisions related to freshwater which were taken during the sixth session of the Commission on Sustainable Development (see E/1998/29) and eight years after the holding of the United Nations Conference on Environment and Development, the United Nations Millennium Declaration⁴ set out the development agenda for the United Nations system, in which a target was formulated among the Millennium Development Goals aimed at reducing by half the number of people without sustainable access to safe drinking water by 2015. Two years later, in 2002, at the World Summit on Sustainable Development, held in Johannesburg, South Africa, the target to reduce by half the number of people without sustainable access to sanitation was added to the Goals in the Johannesburg Plan of Implementation (para. 8). At the same time, it was also agreed — although this goal did not become part of the Millennium Development Goals — that countries should develop integrated water resources management and water efficiency plans by 2005. Generally speaking, these were the most well-established internationally agreed goals specific to water at that time.

6. It was clear that the turn of the millennium was a turning point for water. Within the context of the increased attention centred on water, as garnered through the adoption of those instruments, and the awareness of the work needed to make their goals a reality, the General Assembly, in its resolution 55/196 of 20 December 2000, proclaimed 2003 the International Year of Freshwater, with the aim of increasing awareness of the importance of freshwater and promoting action at the local, national, regional and international levels.

7. As the International Year of Freshwater ended, the General Assembly, in resolution 58/217 of 23 December 2003, decided that in order to build on the momentum created during the Year, a Decade would be initiated whose goal would be to achieve a greater focus on the implementation of water-related programmes and projects, while striving to ensure the participation and involvement of women in water-related development efforts, and the furtherance of cooperation at all levels, in order to help to achieve internationally agreed water-related goals. The International Decade for Action, "Water for Life", 2005-2015, commenced on World Water Day, 22 March 2005, and was coordinated by UN-Water.

8. After 10 full years of activities and actions promoting water, the Decade (as already indicated) came to a close at the end of 2015. In accordance with Economic and Social Council resolution 1980/67 of 25 July 1980, and pursuant to the request of the General Assembly in its resolution 69/215, the Secretary-General was requested to report to the Assembly at its seventy-first session, in 2016, on the evaluation of the Decade. The evaluation that follows, which was conducted based on reporting arrangements designed especially for application to the subject of the Decade, aims at

⁴ General Assembly resolution 55/2.

informing and facilitating the follow-up process to the Decade and providing guidance with respect to consideration of the proclamation of a possible future decade.

III. Brief overview of the midterm comprehensive review of the implementation of the International Decade for Action, "Water for Life", 2005-2015

9. In its resolution 64/198 of 21 December 2009 on a midterm comprehensive review of the Decade, the General Assembly requested the Secretary-General to report to the Assembly at its sixty-fifth session on the implementation of that resolution. In the same resolution, the Assembly invited the President of the General Assembly to host a high-level interactive dialogue of the sixty-fourth session of the Assembly, on 22 March 2010, on the implementation of the Decade and welcomed the offer of the Government of Tajikistan to host a high-level international conference, in June 2010, with both events focusing on the implementation of the Decade.

10. The present report mirrors in many ways the structure of the report on the midterm review,⁵ which outlined activities and actions carried out by the United Nations system, including those at the regional level within its economic and social commissions. A short section focused on United Nations assistance to country programmes (sect. VI) and the communication strategies adopted to support awareness about the Decade (sect. VII). The report noted succinctly that the United Nations had worked closely with many partners during the first five years of the Decade.

11. The main takeaways and recommendations derived from the midterm review guided the work of the Decade for the remaining five years, which has led to the present comprehensive review of the implementation over the period from 2005 to 2015. The outcomes of the midterm review encompassed three main issues:

(a) Resources mobilization: there was a need to mobilize more resources to carry out the implementation of the International Decade for Action, "Water for Life", 2005-2015. This was to be done with the active involvement of all stakeholders, including Governments, non-governmental organizations and private sources. The report suggested that interested stakeholder groups could support the Decade by providing voluntary contributions to UN-Water for the remaining five years;

(b) Stakeholder engagement: in the recommendations the need to increase engagement with all stakeholders in implementing the Decade was reiterated. This should include, but should not be limited to, supporting the development and implementation of national plans on sanitation and drinking water, as well as linking activities carried out by stakeholders in the course of the Decade;

(c) International-national linkages: while the Decade was well known in the international water community, such awareness had not extended as successfully to the national level; hence, more efforts needed to be focused on making this happen. As the findings of the midterm review suggested the need for greater commitment

⁵ See the report of the Secretary-General on the midterm comprehensive review of the implementation of the International Decade for Action, "Water for Life", 2005-2015 (A/65/297).

and political push with regard to sanitation- and drinking water-related goals, the creation of national focal points and mechanisms designed to facilitate and achieve results related to the Decade was proposed.

IV. Intergovernmental processes evolving during the International Decade, "Water for Life", 2005-2015

A. Friends of Water

12. The Friends of Water is a voluntary association of like-minded countries which came together as a platform in support of the implementation of the Decade's midterm comprehensive review in 2010. Initiated by the Permanent Mission of Tajikistan to the United Nations, the Friends of Water, which currently comprises over 40 Member States whose common goal is to promote the United Nations water agenda, is coordinated by a Steering Committee, including Finland, Hungary, Switzerland, Tajikistan and Thailand. The group played a key role in facilitating the preparation of the High-level Interactive Dialogue of the sixty-fourth session of the General Assembly and the High-level International Conference on the Midterm Comprehensive Review of the Implementation of the Decade. Both processes focused on taking stock of the first five years of the Decade.

B. High-level Interactive Dialogue

13. As was the case at the midpoint of the Decade, the President of the General Assembly, as invited by the Assembly in its resolution 69/215, convened, during its sixth-ninth session, on 30 March 2015, a High-level Interactive Dialogue of the sixty-ninth session of the Assembly on a Comprehensive Review of the Progress Achieved in the Implementation of the International Decade for Action, "Water for Life", 2005-2015. The Interactive Dialogue highlighted best practices and lessons learned as a means of facilitating achievement of sustainable development. During the Dialogue, it was emphasized that major progress had been made during the second half of the Decade and that water is now recognized as not only one of the highest priorities for sustainable development, but also as an important contributor to achievement of the other Sustainable Development Goals (i.e., Goals besides Goal 6, which is to "(e)nsure availability and sustainable management of water and sanitation for all"). Enhanced cooperation, capacity-building and adequate technology were required. The cross-cutting nature of water in the context of sustainable development was stressed and, in this regard, the need for inclusion of more sophisticated, quantifiable and clearer indicators in the 2030 Agenda for Sustainable Development. In addition, more investment was needed as well as a human rights-based approach to water and sanitation requiring participatory governance, and the addressing of financing, pollution and improved monitoring and data.

C. High-level Conference

14. As already noted, in its resolution 69/215, the General Assembly welcomed the offer of the Government of Tajikistan to host a High-level International Conference on the Implementation of the International Decade for Action, "Water

for Life", 2005-2015, as it had at the midpoint of the Decade, as a contribution to a comprehensive review of the Decade. The International Conference was held from 9 to 11 June 2015 in Dushanbe and consisted of two high-level implementation panels and six high-level round tables, in addition to pre-conference and side events, which included a Women Water Forum. The Conference highlighted the importance of the Decade in promoting the efforts to achieve international water-related goals and called for improved coordination between stakeholders at all levels in achieving those goals in support of the 2030 Agenda for Sustainable Development.⁶ The main outcomes of the Conference encompassed the suggestion that the global community work towards a greener economy, resilience in the face of global changes, increased funding for water projects and programmes, improved water governance, strengthened cooperation, especially in a transboundary context, and the taking of steps to address emerging water problems.

V. Programmes and activities conducted by the United Nations system including through country programmes

A. UN-Water (coordinator)

15. UN-Water was the overall coordinator of activities related to the Decade over nearly the entirety of its 10-year duration, utilizing its programmes, projects, members and partners to implement the Decade. UN-Water is a coordinating mechanism for United Nations system bodies and external stakeholder partners. Created by the Secretary-General in 2003, UN-Water was originally composed of senior programme managers in United Nations organizations who then elected one of their peers to serve as Chair. With the General Assembly relying increasingly on UN-Water for coordination and technical advice centred around water issues, the role of UN-Water became increasingly relevant. In 2011, the position of Chair was elevated to that of chief executive of a United Nations entity, which in turn enabled improved support of Member States during the latter part of the Decade. UN-Water facilitated a series of activities and actions aimed at implementing the Decade which helped foster achievement of the goals of the Decade and further progress on achieving sustainable water management worldwide. A more in-depth perspective on these activities can be found in section VII below.

B. UN-Water Decade Programmes on Capacity Development (UNW-DPC) and Advocacy and Communication (UNW-DPAC)

16. Two UN-Water Decade Programmes were created shortly after the launch of the Decade in order to support the activities related to it. UNW-DPC was established to strengthen coherence and effectiveness of the capacity-building elements related to the Decade and support the members and partners of UN-Water in assisting national Governments in their efforts to achieve the internationally agreed goals and targets related to water. The role of UNW-DPAC was to maintain and even increase attention focused on the themes of water and sanitation at all levels, ranging from the local to the global, over the duration of the Decade. More

⁶ Resolution 70/1.

information on the UN-Water Decade Programmes and their activities on behalf of the Decade can be found in section VII.C below.

C. World Water Assessment Programme (WWAP)

17. The World Water Assessment Programme, which was created shortly before the start of the Decade, in 2003, and is hosted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), is charged with monitoring the world's water resources. Bringing together members and partners of UN-Water as well as experts hailing from around the world, the Assessment Programme regularly contributes recommendations, develops case studies, enhances assessment capacity at the national level and informs the decision-making process. WWAP regularly disseminates a variety of publications. Each issue of the World Water Development Report, a UN-Water flagship publication which, since 2014, has been produced yearly, provides an in-depth examination of a specific water-related subject to help inform decision makers on key issues of sustainable water management.

D. World Health Organization (WHO)/United Nations Children's Fund (UNICEF) Joint Monitoring Programme for Water Supply and Sanitation (JMP)

18. Given the Decade's focus on helping to implement international water-related goals, the Joint Monitoring Programme has, over the course of the Decade, been the primary mechanism for monitoring the targets related to drinking water and sanitation under the Millennium Development Goals; and the Programme will continue to exercise the same function with respect to water and sanitation access, under Sustainable Development Goal targets 6.1 and 6.2.

E. Secretary-General's Advisory Board on Water and Sanitation

19. The Advisory Board on Water and Sanitation was created in 2004 by the then Secretary-General, Kofi Annan, to provide advice on water- and sanitation-related issues, spur action both within and outside the water community and mobilize funds for water and sanitation. The Board was composed of eminent persons and experts representing national Governments, civil society and the private sector, who were engaged in dealing with water issues. The work of the Advisory Board on water and sanitation issues helped underpin the efforts made during the Decade to achieve agreed water-related targets. Most notably, the Advisory Board facilitated and supported the initiative "Sustainable sanitation: the five-year drive to 2015", presented in General Assembly resolution 65/153 of 20 December 2010 as a platform for action, which focused efforts to close the gap in order to meet the Millennium Development Goal target on sanitation. The Advisory Board terminated its activities with the handover of a final report⁷ to the Secretary-General during its final meeting on 20 November 2015.

⁷ Available at <https://sustainabledevelopment.un.org/topics/water/unsgab/finalreport>.

VI. Regional initiatives

A. Economic Commission for Africa

20. During the Decade, Africa made significant progress towards achieving the objectives that had been laid out for the period of 2005-2015. Water rose higher than it ever had in the political agenda of the continent, becoming a key issue even at the level of Heads of State. The African Ministers' Council on Water was founded in 2002, with the African Water Vision for 2025 (2000) as its foundation, to promote cooperation, security, social and economic development, and poverty eradication as well as help drive political will towards the meeting of the targets under the water-related Millennium Development Goals. In 2008, national Governments adopted the eThekweni Declaration, which focused on sanitation and hygiene. This was followed in the same year by the adoption of the Sharm el-Sheikh Declaration, an agreement of the Heads of State of Africa, in which they committed to the Millennium Development Goals and water security. Further action and implementation of Decade-related goals were galvanized by the African Ministers' Council through such initiatives as AfricaSan, Africa Water Week and the African Water Facility (in collaboration with the African Development Bank).

B. Economic Commission for Europe (ECE)

21. The ECE region focuses on implementation of the Decade primarily through the lens of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, which has been both an official mechanism through which policies are established at the regional level and an instrument critical to the implementation, of those policies on the ground by the parties to the Convention. Application of the Convention has been successful in promoting more than just transboundary river basin cooperation. It has been effective in furthering cooperation among countries through project implementation and exchange of knowledge and experiences. It has also fostered national-level policy development through national policy dialogues, which has improved water resources management in the region, and enabled the goals of the Decade to be met. By making climate change adaptation activities and work related to the water-food-energy-ecosystem nexus a key focus, the Convention has promoted the goals and principles of the Decade.

C. Economic Commission for Latin America and the Caribbean (ECLAC)

22. Since the inauguration of the Decade, the region of Latin America and the Caribbean has made substantial progress towards the achievement of internationally agreed water- and sanitation-related goals and targets. While headway has been made more significantly with regard to drinking-water supplies compared with sanitation, ECLAC has directed efforts towards addressing the gaps, specifically within institutional frameworks, to ensure economic efficiency, social equality and environment sustainability, the pillars of sustainable development, as a basis for promoting water security, cooperation and integrated water resources management. Propelled by the World Water Forums held during the second half of the Decade, the

Water Forum of the Americas has set forth on a path towards bringing together diverse stakeholders and actors from the different subregions of the continent to work towards forging a common vision for sustainable water resources management.⁸

D. Economic and Social Commission for Asia and the Pacific (ESCAP)

23. Asia is one of most diverse regions of the world, in terms of both demographics and geography. Today's most critical water-related challenges and opportunities are being faced on that continent. Some of the largest gains in terms of achieving the water-related Millennium Development Goals were made because of progress on the continent, with China and India making significant progress towards meeting the water and sanitation targets. While much work remains to be done, Asia has made substantial strides in improving water security, increasing the implementation of integrated water resources management and promoting cooperation at the national and regional levels through mechanisms such as the Economic and Social Commission for Asia and the Pacific and the Asia-Pacific Water Forum. The Decade has focused broadly on water-related disasters, as Asia experienced unprecedented levels of damage inflicted by such disasters during the span of the Decade. This has invigorated work in the region on implementing the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters⁹ as well as the activities of the High-Level Experts and Leaders Panel on Water and Disasters.

E. Economic and Social Commission for Western Asia (ESCWA)

24. Western Asia is the most water-stressed region on the planet, with 18 of its 22 countries below the "water poverty line" of 1,000 cubic metres/person/year. The region has been adversely affected, over the course of the Decade, by population growth, urbanization and climate change, as well as conflict, which has had a negative impact on water resources in many areas of the region. Only a small degree of progress has been made with regard to achieving the Millennium Development Goal targets of access to water and sanitation; and the region has remained under the global average since the commencement of the Decade. Effort has not been lacking, however, and the Economic and Social Commission for Western Asia (ESCWA) works hand in hand with the Arab Water Council to achieve the goals of the Arab Strategy for Water Security in the Arab Region to Meet the Challenges and Future Needs for Sustainable Development (2010-2030).

VII. Achieving the Decade's goals

A. Overall objective: achieving water-related goals

25. Pursuant to General Assembly resolution 58/217, by which the Assembly launched the Decade, all of the primary objectives of the Decade were focused on

⁸ United Nations, *Treaty Series*, vol. 1936, No. 33207.

⁹ A/CONF.206/6 and Corr.1, chap. I, resolution 2.

facilitating the achievement of internationally agreed water-related goals that had been set out in Agenda 21, the Programme for the Further Implementation of Agenda 21, the United Nations Millennium Declaration and the Johannesburg Plan of Implementation, and, as appropriate, those identified during the twelfth and thirteenth sessions of the Commission on Sustainable Development.

26. The most visible of these goals were the targets included in the Millennium Development Goals concerning drinking water and sanitation. Millennium Development Goal target 7.C was to "halve, by 2015, the proportion of people without sustainable access to safe drinking water and sanitation". For the target on drinking water, the effort was a success. The target was achieved five years ahead of schedule, in 2010, with 2.6 billion people having gained access since 1990 and 91 per cent of the world's population currently using an improved drinking-water source.¹⁰ While this has been a significant achievement, 663 million people were still living without an improved drinking-water source by the end of the Millennium Development Goals period in 2015.¹¹

27. Efforts in the area of sanitation were not as successful, inasmuch as Member States were not able to achieve the Millennium Development Goal target of halving the population without sustainable access to basic sanitation. While access was extended from 54 to 77 per cent between 1990 and 2015, with 2.1 billion gaining access, by the end of the Millennium Development Goals period in 2015, 2.4 billion people still lacked access to improved sanitation facilities and nearly 1 billion still practised open defecation.¹² A significant gap remains in terms of sustainable access to both safe drinking water and sanitation, which is why Sustainable Development Goal targets 6.1 and 6.2 focus on universal access to safe drinking water and sanitation.

28. The Johannesburg Plan of Implementation committed to "develop integrated water resources management and water efficiency plans by 2005, with support to developing countries, through actions at all levels". The goal of developing such plans within three years of the holding of the World Summit in Johannesburg had been overly ambitious; nonetheless, through concerted efforts, especially by the United Nations Development Programme (UNDP) and the UN-Water Global Water Partnership (GWP), substantial progress was made during the Decade towards achieving this target. According to the 2012 status report on the application of integrated approaches to the development, management and use of water resources, "80 per cent of countries have embarked on reforms to improve the enabling environment for water resources management based on the application of integrated approaches as stated in Agenda 21 and affirmed in the Johannesburg Plan of Implementation".¹³

29. One of the other goals formulated at the twelfth and thirteenth sessions of the Commission on Sustainable Development was set forth in the call to "shift emphasis from a needs-based to a rights-based approach" when it comes to improving access to safe drinking water in urban and rural areas. While a framework has not been

¹⁰ WHO/UNICEF, *Progress on Sanitation and Drinking Water: 2015 Update and MDG Assessment* (Geneva, 2015).

¹¹ Ibid.

¹² Ibid.

¹³ United Nations Environment Programme, *Status Report on the Application of Integrated Approaches to Water Resources Management* (Nairobi, 2012).

established to monitor and evaluate progress on this movement towards a rights-based approach to access to safe drinking water and sanitation, significant progress was made when, in 2010, the General Assembly, in its resolution 64/292 of 28 July 2010, recognized the human right to safe and clean drinking water and sanitation.

B. Greater focus on water-related issues

30. In the second half of the Decade, campaigns became one of the major success stories of UN-Water, having raised water awareness among members of the public — a public wider than any reached before by the United Nations system. These included (a) the Decade itself, (b) World Water Day,¹⁴ an event held yearly on 22 March which generates excitement within the water community and beyond through presentation of a specific water-related topic, (c) the “Drive to 2015: sanitation for all” campaign, which aimed at making sanitation a global development priority and (d) World Toilet Day,¹⁵ celebrated every 19 November since 2013, which is intended to raise awareness on sanitation issues worldwide.

31. The informational materials of UN-Water have been disseminated everywhere throughout the Decade, providing knowledge on a multitude of water-related subjects in support of the Decade. These materials range from the UN-Water Technical Advice on a Dedicated Water Goal in the Post-2015 Development Agenda, which proved critical in making the case for inclusion of a dedicated goal on water in the 2030 Agenda for Sustainable Development (Goal 6), to the annual World Water Development Report, which is aimed at providing decision makers with evidence-based information designed to assist in the implementation of the sustainable management of water resources across different thematic areas. These are backstopped by UN-Water analytical and policy briefs. With respect to drinking water and sanitation, both the WHO/UNICEF Joint Monitoring Programme annual progress reports and the UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water provide the data and analysis needed to monitor the international targets associated with these areas.

C. Implementation of programmes/projects¹⁶

1. UN-Water Decade Programme on Capacity Development

32. Hosted by the United Nations University in Bonn, the Programme on Capacity Development facilitated the capacity-building dimension of the Decade. Capitalizing on the efforts of over 30 UN-Water members and partners, the Programme carried out more than 100 capacity development activities dating back to 2007. In addition to undertaking capacity-building projects, UNW-DPC managed the UN-Water Activity Information System (UNW-AIS) as a platform for sharing information on water-related projects and learning activities among UN-Water members and partners.

¹⁴ See resolution 47/193 of 22 December 1992, entitled “Observance of World Day for Water”.

¹⁵ See resolution 67/291 of 14 July 2013, entitled “Sanitation for all”.

¹⁶ See the International Decade for Action, “Water for Life”, 2005-2015, website for further information derived from the reports and documents of the Programmes (<http://www.un.org/waterforlifedecade/>).

2. UN-Water Decade Programme on Advocacy and Communication (UNW-DPAC)

33. Mandated to support the implementation of the Decade through advocacy and communications, the Programme on Advocacy and Communication, managed by the Department of Economic and Social Affairs of the United Nations Secretariat and based in Zaragoza, Spain, carried out a series of activities focused on raising awareness on the Decade and water in general. The Programme achieved this through a variety of means, most notably through its annual International Zaragoza Conference, which helped UN-Water and its members and partners prepare for the World Water Day of the upcoming year. The Programme also coordinated the "Water for Life" UN-Water Best Practices Award process, directly linked to the Decade, through which best practices helping to fulfil international commitments made on water and water-related issues are highlighted. The Programme led two other important activities: management of the Decade website,¹⁷ through which progress on the Decade could be tracked, and management of the United Nations Documentation Centre on Water and Sanitation,¹⁸ which is the source of a compilation of materials related to water derived from the United Nations system.

3. Other UN-Water featured projects

34. Other UN-Water projects that supported the Decade included the (a) UN-Water Federated Water Monitoring System and Key Water Indicator Portal initiative, (b) the UN-Water country briefs project, (c) the Safe Use of Wastewater in Agriculture project and (d) the Capacity Development to Support National Drought Management Policies project.

D. Participation and involvement of women in water-related development efforts

35. In its resolution 58/217, which set forth the specific goals of the Decade, the General Assembly clearly stated that those goals should be "a greater focus on water-related issues at all levels and on the implementation of water-related programmes and projects, while striving to ensure the participation and involvement of women in water-related development efforts". Historically, the inclusion of women in these types of actions within the water community has been a challenge, despite the benefits that accrue to society, livelihoods and water itself. One of the goals of the Decade was to bridge this gap by facilitating the inclusion of women in its activities.

36. The first half of the Decade witnessed an effort to include women in water-related development efforts through the creation by UN-Water of the Task Force on Water and Gender, which, until 2010, had promoted gender mainstreaming in the implementation of internationally agreed upon goals related to water and sanitation. The Task Force was highly active in terms of producing policy briefs and organizing workshops, side events, training sessions and panels on the subject. While the Task Force disbanded in 2010, many UN-Water members and partners continued the Task Force's work by integrating that work in their own activities. For example, the World Bank Group, UNDP, the Water Supply and Sanitation Collaborative Council,

¹⁷ See <http://www.un.org/waterforlifedecade/>.

¹⁸ See http://www.zaragoza.es/ciudad/medioambiente/onu/en/ultimasPer_Onu.

UNICEF, the Gender and Water Alliance, the United Nations Human Settlements Programme (UN-Habitat), the International Fund for Agricultural Development (IFAD), the Food and Agriculture Organization of the United Nations (FAO), the Department of Economic and Social Affairs of the United Nations Secretariat, the International Strategy for Disaster Reduction secretariat and the Women for Water Partnership have all produced materials advocating for gender mainstreaming in water and sanitation activities.

E. Furthering water cooperation

37. In its resolution 65/154 of 20 December 2010, the General Assembly declared 2013 the International Year of Water Cooperation with a view to increasing and improving water cooperation globally in response to the growing pressure on water resources and on societies and nature. Given that one of the Decade's focus areas was furthering cooperation in the area of water resources, as called for in Assembly resolution 58/217, this particular international year generated a concentrated effort to increase water-related cooperation among Member States during the latter half of the Decade. As noted in the Secretary-General's report on the Year (A/69/326), it was effective in enhancing knowledge on water cooperation and reinforcing the idea that "political will, legal frameworks, accountability and institutional structures can provide a solid foundation for cooperation over water". The International Year of Water Cooperation was a success, inasmuch as it created an impetus for collaborations worldwide and the strong engagement of youth.

38. Examples of such cooperation ranged from the signing of the Treaty on Cooperation on the Conservation and Sustainable Development of the Dniester River Basin in 2012 by the Republic of Moldova and Ukraine and the engagement of over 500,000 people in activities related to the International Year of Water Cooperation to the collaboration of the various members and partners of UN-Water on a post-2015 global goal for water, which provided the rationale for inclusion of a stand-alone water goal in the 2030 Agenda for Sustainable Development.

39. In its resolution 58/217, the General Assembly called for the "furtherance of cooperation at all levels" with regard to the implementation of the Decade. On the other hand, the way in which UN-Water has itself promoted cooperation, both externally and internally, since its creation, has often been neglected. The lifespan of UN-Water up to now is almost as long as that of the Decade; and the progress it has made as a coordination mechanism for United Nations entities and external stakeholder partners during this time, in fostering cooperation among those entities, albeit not without difficulty, so as to raise the profile of water in the political agenda, must not be minimized.

VIII. Lessons learned and the way forward

40. The Decade is responsible for many accomplishments. No other 10-year period in the history of the United Nations has witnessed as many water-related activities and achievements.

41. The successes of the Decade can be attributed in great measure to its ability to have consistently reached milestones over the course of those 10 years, ranging

from the establishment of two time-bound UN-Water programmes in support of the Decade in 2007 and the International Year of Sanitation (2008) to the recognition of the human right to safe and clean drinking water and sanitation by the General Assembly in 2010; these accomplishments required only half the Decade to materialize. The second half began with the adoption of a General Assembly resolution on "Sustainable sanitation: the five-year drive to 2015" in 2011, followed by the highlighting of water in the outcome document of the United Nations Conference on Sustainable Development, entitled "The future we want",¹⁹ the International Year of Water Cooperation (2013) and the inclusion of a stand-alone Sustainable Development Goal on water just before the close of the Decade.

42. And these are just highlights! Through sustained campaigns centred around World Water Day, World Toilet Day and the sanitation drive, along with the dissemination of information materials and stakeholder engagement at events, training sessions and seminars, the Decade helped maintain momentum, provided the impetus for continued actions and activities and helped water become the focus of a level of attention greater than any witnessed previously.

43. Notwithstanding all the positive outcomes of the Decade, there is still much work to be done. In the report of the Secretary-General on progress towards the Sustainable Development Goals (E/2016/75), it is stated that an estimated 663 million people in 2015 were still using unimproved sources or surface water and that in 2012 it was estimated that at least 1.8 billion people were exposed to contaminated drinking water. In 2015, about 2.4 billion people were still using an unimproved sanitation facility; among them were 946 million people without any facilities at all, who continued to practise open defecation. The unsafe management of faecal waste and wastewater continues to pose a major risk to public health and the environment. There is always room for improvement on cooperation. This is the case for cooperation not only of countries on the issue of transboundary waters, but also between ministries at the national level, as well as for cooperation on the implementation of integrated water resources management, which is in the process of development in most countries, but still calls for a high degree of progress. The level of participation of women and stakeholders is still far from what it should be with regard to the sustainable management of water resources; and the human right to safe and clean drinking water and sanitation is still far from realization in a majority of countries. The Decade has been a success, but it also offers a reminder of how much work there remains to be done.

44. The Decade has also shown where the shortfalls lie and what slows down progress on water-related goals and targets. There are still a myriad of constraints on human, institutional and financial resources. With respect to access to clean and safe drinking water and sanitation, discrimination and inequalities are still pervasive in many societies, with marginalized populations being denied the opportunity to share in the achievements of the Decade.

45. For the advancement of progress, there needs to be greater investment in the sustainable management of water resources, not only in the financial sphere, as was noted in the midterm review of the Decade, but also in terms of improving knowledge, research and innovation, all of which should be accompanied by sound policy and adequate means of implementation, with a focus on funding, capacity

¹⁹ Resolution 66/288, annex.

development, technology and good governance. Consistent and continuous monitoring, evaluation and reporting are required to maintain commitment and need, and should be extended to areas beyond drinking water and sanitation. Special attention still needs to be paid to stakeholder engagement and participatory approaches, especially in the case of women. While progress has been made during the Decade on women's engagement in projects and programmes related to water, one of the goals of the Decade, the gap in this area is still a large one.

46. The Decade demonstrated that leadership is needed at the highest levels. When this need is fulfilled, action occurs. With regard to future activities on water within the United Nations system, more leadership and action are needed on the part of Member States. Such leadership within the context of high-priority issues, as witnessed during the "drive to 2015", in the area of sanitation and in the observance of World Toilet Day, does produce results.

47. As the Millennium Development Goals had been launched only a few years before the commencement of the Decade, it was impossible to predict at that point whether the United Nations system would agree upon a new set of water-related goals in 2015, which would extend beyond drinking water and sanitation. With the Sustainable Development Goals now in place, along with a much more comprehensive development agenda for water, the way forward is appropriately ambitious, as the Goals and the agenda take into consideration the many facets of water associated with livelihoods and ecosystems.

48. The International Decade for Action, "Water for Life" 2005-2015, proved that through milestones attained consistently over a given period, results, at many levels, can be achieved. After 10 years of concerted effort and in comparison with the situation in 2005, the global water community is now in a much different position and has acquired a more positive orientation. While a large amount of work remains to be done, it is clear that much can be accomplished by building on the steps taken during the Decade.



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Promotion and protection of the rights of children

Sale of children, child prostitution and child pornography

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur of the Human Rights Council on the sale of children, child prostitution and child pornography, Maud de Boer-Buquicchio, in accordance with Assembly resolution 70/137.

* A/71/150.



Report of the Special Rapporteur of the Human Rights Council on the sale of children, child prostitution and child pornography

Summary

The present report is submitted pursuant to General Assembly resolution 70/137. The Special Rapporteur describes the activities undertaken in relation to the discharge of her mandate since her previous report to the Assembly (A/70/222).

She also provides a study containing an analysis of the sale of children for the purpose of forced labour and proposes comprehensive measures to combat this phenomenon.

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I. Introduction

1. In its resolution 70/137, the General Assembly requested the Special Rapporteur of the Human Rights Council on the sale of children, child prostitution and child pornography to continue to submit reports to the Assembly on the activities undertaken in the fulfilment of her mandate.

2. In the present report, the Special Rapporteur provides information on her activities undertaken from August 2015 to August 2016. The report also contains a study on the sale of children for the purpose of forced labour and proposes comprehensive measures to combat this phenomenon.

II. Activities of the Special Rapporteur

A. Country visits

3. The Special Rapporteur undertook an official visit to Japan from 19 to 26 October 2015 (see A/HRC/31/58/Add.1) and to Georgia from 11 to 18 April 2016. She also conducted a joint technical visit to Nigeria with the Special Rapporteurs of the Human Rights Council on contemporary forms of slavery, including its causes and consequences and on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health from 18 to 22 January 2016 (see A/HRC/32/32/Add.2).

4. The Governments of the Dominican Republic and of Bulgaria have accepted her request to conduct an official visit in the second half of 2016 and the first half of 2017, respectively. She calls on all Member States who have not yet replied to her requests to consider them positively.

B. Communications and press releases

5. The Special Rapporteur sent communications to several Member States over the reporting period. Those communications and the responses from the Governments concerned are publicly available in the joint communications reports of the special procedures submitted to the Human Rights Council.¹

6. During the reporting period, the Special Rapporteur issued joint press releases on the abduction of children who risked being sold and on the plight of child victims of Boko Haram.

C. Other activities

7. As a follow-up to her thematic report on the issue of information and communication technologies and the sale and sexual exploitation of children submitted to the twenty-eighth session of the Human Rights Council (A/HRC/28/56), the Special Rapporteur has participated in various events to promote the implementation of her recommendations. On 30 September 2015, she attended an event hosted by the Secretary-General of the International

¹ See www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

Telecommunication Union (ITU) in the context of the tenth meeting of the ITU Council Working Group on Child Online Protection. On 16 and 17 November 2015, the Special Rapporteur spoke at the second #WePROTECT summit, held in the United Arab Emirates. She is currently a member of the International Advisory Board of the #WePROTECT Global Alliance initiative.

8. On 7 March 2016, the Special Rapporteur spoke at the annual full day meeting on the rights of the child, held during the thirty-first session of the Human Rights Council, which focused on the sexual exploitation of children online. On 2 May 2016, she co-organized with the International Telecommunication Union a workshop entitled "Child online protection: the road ahead, emerging trends and technologies", which took place in Geneva in the context of the World Summit on the Information Society Forum.

9. In follow-up to her visit to Nigeria and linked to her study on the care, recovery and reintegration of child victims of sale and sexual exploitation (A/70/222), the Special Rapporteur co-organized on 13 June 2016 a side event on the rehabilitation and reintegration of women and children victims of Boko Haram captivity during the thirty-second session of the Human Rights Council in Geneva.

10. In her annual report to the Human Rights Council, submitted at its thirty-first session (A/HRC/31/58), the Special Rapporteur focused her research on tackling the demand for the sexual exploitation of children. In that context, on 7 March 2016, the Special Rapporteur organized an event on the demand factor, which brought together several experts from different sectors.

11. On 23 November 2015, the Special Rapporteur took part in a high-level symposium on national and intercountry adoption in Monaco. On 27 and 28 January 2016, she participated in the final meeting in Luxembourg of the Interagency Working Group on Sexual Exploitation of Children during which the terminology guidelines for the protection of children from sexual exploitation and sexual abuse were adopted. She also spoke at the launch of the guidelines in Geneva, on 14 June 2016.²

12. On 5 and 6 April 2016, the Special Rapporteur was a speaker at the high-level launch conference of the Council of Europe Strategy for the Rights of the Child, held in Sofia. On 21 June, the Special Rapporteur spoke at the Parliamentary Assembly of the Council of Europe during a debate on the over-sexualization of children, in Strasbourg, France.

13. On 24 May 2016, the Special Rapporteur was a speaker at an event in The Hague marking the fiftieth anniversary of Terre des Hommes Netherlands. On 12 July 2016, she made an intervention at the official launch of the Global Partnership to End Violence against Children.

14. On 7 June 2016 in Geneva, the Special Rapporteur, with the support of Plan International, launched a publication on the twenty-fifth anniversary of the mandate and child-friendly material on the work of the mandate.³

² See www.luxembourgguidelines.org.

³ See www.ohchr.org/EN/Issues/Children/Pages/ChildrenIndex.aspx.

III. Study on the sale of children for the purpose of forced labour

A. Introduction

15. The mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography was created, *inter alia*, to "consider matters relating to the sale of children".⁴ However, since its inception, the work of the mandate has mainly focused on the sexual exploitation of children. Similarly, the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography has thus far mainly been addressed from the angle of the sexual exploitation of children. The objective of the present thematic study is to address that gap, with the ultimate goal of bringing conceptual clarity, in order to better protect child victims and prevent the sale of children for the purpose of forced labour.

16. The study concentrates solely on the sale of children for the purpose of forced labour. However, all situations in which children are engaged in harmful work call for responses and accountability measures based on criminal law and policy interventions. Although it can involve situations of forced labour, the sale of children for the purpose of sexual exploitation is beyond the scope of the present study and has therefore been excluded.

17. The methodology of the study consisted of a comprehensive desk review of recent studies, academic research, policy documents and legislation. It also benefited from contributions by international experts and relevant international organizations.⁵ Most of the literature concentrates on various forms of exploitation that are similar to, yet slightly different from, the focus of the study. Consequently, identifying situations where children have been sold for the purpose of forced labour has required examining a set of elements and inferring that criteria to characterize the situation as such have been met.

B. Concept and terminology

18. Conceptual clarity in relation to the sale of children for the purpose of forced labour presents particular challenges. The resolutions creating and renewing the mandate and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography do not provide a definition of the crime. While many concepts, such as the worst forms of child labour, child trafficking and slavery and slavery-like practices, may encompass similar realities, they also feature significant differences. It is therefore essential to define adequately the sale of children for the purpose of forced labour, in order to avoid legal loopholes and protection gaps, and ensure the design and implementation of strategies that address the specific root causes, factors of vulnerability, mechanisms and manifestations of the sale of children for the purpose

⁴ Commission on Human Rights resolution 1990/68.

⁵ The Special Rapporteur would like to thank experts from the United Nations Children's Fund (UNICEF), the International Labour Organization (ILO) and Mike Dottridge for providing their expertise.

of forced labour. The ultimate goal is to ensure that the rights violated are fully justiciable and that victims can find effective remedy and redress.

19. The sale of children for the purpose of forced labour must be understood in the context of the international legal framework on child labour and its worst forms. That framework includes article 32 of the Convention on the Rights of the Child, which prohibits any work that could impair the child's development, and article 35, which forbids the sale of children for any purpose or in any form. That article was introduced as a separate provision from sale for the purpose of sexual exploitation mentioned in article 34, in recognition that children are subjected to sale and trafficking for many reasons.⁶ The international framework also includes the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

20. The international framework also comprises International Labour Organization (ILO) Convention No. 138 of 1973 on the Minimum Age for Admission to Employment, which sets the minimum age for admission to employment at 15 (article 2.3), with the option of setting it at 14 as a transitional measure (article 2.4). Light work may be allowed for children aged 13 to 15 (article 7.1) or 12 to 14 for States having used the transitional measure (article 7.4). Child labour can be defined as work which is harmful and interferes with schooling.⁷ Relevant standards also comprise ILO Conventions No. 182 of 1999 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which requires States parties to "take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency" (article 1), and No. 29 of 1930 on Forced or Compulsory Labour.

21. According to article 2 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, "sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration". That definition includes any benefit, financial or of another nature that can be obtained in the transaction. Article 3, paragraph 1 (a) (i) c., of the Optional Protocol obliges States parties to criminalize the action of "offering, delivering or accepting, by whatever means, a child for the purpose of engagement of the child in forced labour." The sale of children therefore implies at least two parties, one that offers or delivers the child and one that accepts the child.⁸ Consent, or any form of agency on the part of the child, is considered irrelevant.

22. Similar yet different notions addressed in international instruments are "forced labour", "worst forms of child labour", "slavery" and "slavery-like practices" and "trafficking in children". According to article 3 of ILO Convention No. 182 on the Worst Forms of Child Labour, the sale of children and forced labour both constitute the worst forms of child labour and forms of slavery or practices similar to slavery.

⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Legislative history of the Convention on the Rights of the Child" (Geneva, 2007); United Nations Children's Fund (UNICEF), "Implementation handbook for the Convention on the Rights of the Child" (Geneva, 2002).

⁷ See www.ilo.org/ipecc/facts/lang--en/index.htm.

⁸ ECPAT, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (Bangkok, 2016).

23. The crime of trafficking in children has a number of similarities with the sale of children for the purpose of forced labour. In accordance with article 3 (a) of the Palermo Protocol, child trafficking is the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation. As a general rule, the key characteristic of trafficking is the transfer of the child for the purpose of exploitation, which may or may not involve sale.⁹ Sale does not necessarily imply transportation, but does involve a transfer of control or authority, leading to an overlap with trafficking. Yet some forms of sale of children for the purpose of forced labour do not amount to trafficking, even if the effects may be similar.¹⁰ In sum, both crimes may cover similar realities, for instance, children may be trafficked without financial transactions and may be victims of sale for the purpose of forced labour without the characteristics of trafficking. In both cases demonstrating the intent suffices to identify the crime.¹¹

24. Following an analysis of relevant concepts, it can be inferred that the crime of the sale of children for the purpose of forced labour includes the following elements:

(a) The act of selling the child that materializes with a form of transaction in which the person(s) offering the child obtain(s) a gain (remuneration or any other consideration) and the person(s) receiving the child expect(s) some benefit through exploitation of the child;

(b) Through the sale, the person receiving the child holds control over the child and the child loses his or her freedom and the possibility of leaving the situation. Consent, of the child or of his or her parent(s) or legal guardian, is irrelevant. The impossibility of leaving the situation may be the result of coercion. The threat may affect the child him or herself, or a third party. Forms of coercion concerning children can be much lighter than those considered for adults and can sometimes be simply the result of dependency, given children's limited agency, greater vulnerability to being influenced and sensitivity to threats;

(c) A definition of forced labour from a child rights perspective takes into consideration children's specific vulnerability. Working and living conditions may be particularly harmful to children's development, especially when separated from their family environment;

(d) The intent of engaging the child in forced labour is sufficient for the offence to be identified as such, even if the exploitation has not actually occurred.

⁹ UNICEF Innocenti Research Centre, "Handbook on the Optional Protocol on the sale of children, child prostitution and child pornography" (Florence, 2009).

¹⁰ For example, situations of debt bondage where the child remains in the family home, the sale of a child for domestic work, or servile marriage following a transaction with the child's family, may not involve trafficking. Similarly, children sold for forced begging or to perform illicit acts may not move from one place to another and may be coerced into such activities while living in their homes and usual environment.

¹¹ United Nations Office on Drugs and Crime (UNODC), "The concept of 'exploitation' in the trafficking in persons Protocol", issue paper (Vienna, 2015).

C. Scope of the phenomenon and its manifestations

25. The sale of children for the purpose of forced labour gives rise to a diverse set of realities for child victims. The hidden nature of the phenomenon, the fact that many concepts overlap with its definition and that it is not clearly defined in national legislation, and the lack of a specific focus on the crime by law enforcement means that there are no reliable estimates of the number of child victims of sale for the purpose of forced labour. However, proxy indicators suggest that the phenomenon is widespread and no country is immune.

1. Review of available data

26. The sale of children for the purpose of forced labour does not constitute a specific category for which data is collected at the global level. However, an examination of the data available for similar situations makes it possible to draw a picture of the extent of the phenomenon and major trends.

27. The overwhelming majority of forced labour consists of labour exploitation. The latest global estimate concludes that a total of 20.9 million persons are victims of forced labour, of which 5.5 million (26 per cent), are children. Women and girls represent the greater share of the total: 11.4 million (55 per cent).¹²

28. A review of global estimates of trafficking in human beings¹³ makes it possible to highlight a number of common features characterizing the sale of children for the purpose of forced labour. First, the share of children trafficked for the purpose of forced labour is increasing and the share of children involved in forced labour is particularly high. Second, while in Europe and Central Asia children may be sold for the purpose of forced begging and petty crime, in the rest of Asia and in the Americas a high proportion of child victims may be sold for economic exploitation. Lastly, there are significant regional disparities and a lack of common definitions affects the reliability of estimates, most likely leading to underestimates.

2. Main forms of the sale of children for the purpose of forced labour

29. Children are sold and compelled to engage in forced labour in a wide variety of sectors and occupations. While some situations can immediately be identified as falling under the category of the sale of children for the purpose of forced labour, other situations amount to the same crime but may not readily be identified as such.

Domestic work

30. The sale of children for the purpose of forced labour in domestic work is a widespread phenomenon. Domestic work can amount to a form of forced labour, depending on the nature of the employment relationship, which can make children heavily dependent on their employer. That type of employment relationship leads to ambiguous informal arrangements and a lack of clear contractual conditions, which paves the way for dependency, abuse and harmful working conditions.¹⁴ Among

¹² ILO, "Global estimate of forced labour: results and methodology" (Geneva, 2012).

¹³ UNODC, "Global report on trafficking in persons, 2014" (Vienna, 2014).

¹⁴ ILO, "Ending child labour in domestic work and protecting young workers from abusive working conditions" (Geneva, 2013).

child domestic workers, live-in workers are the most exploited.¹⁵ Over 17 million children are engaged in domestic work, of which almost two thirds are estimated to be in child labour, either because they are below the legal minimum working age or working in conditions which represent the worst forms of child labour.¹⁶ Most of them are girls.

31. While data remains scarce, ILO has concluded that there are significant numbers of children in debt bondage, child victims of trafficking and children in situations of servitude.¹⁴ The ILO Committee of Experts on the Application of Conventions and Recommendations has defined numerous situations of domestic work as amounting to child labour and, in several instances, forced labour.¹⁷ Children can be forced into domestic work under the guise of adoption, in conditions similar to bonded labour.¹⁴ Children may also be sold for the purpose of forced domestic work because their families are in bonded labour.¹⁵ A UNICEF study has highlighted the multiple ways in which children are recruited for domestic work. In some cases, intermediaries earn money from the child's placement and/or by taking a significant share of children's wages.¹⁸

32. When children have been sold or are in domestic work as a result of debt bondage, the possibility of leaving the employment relationship is further reduced to nothing.¹⁵

Servile marriage

33. Child marriage may amount to the sale of children for the purpose of forced labour when the marriage agreement includes a transaction in the form of financial payment or in-kind benefits. In such transactions, children are treated as commodities and exchanged for goods or money, or to settle debts or disputes. A study has highlighted the dynamics that lead children to be sold for the purpose of forced labour under the cover of marriage.¹⁹

Agriculture

34. ILO estimates that agriculture is the sector employing the largest share of working children, nearly 60 per cent or 98 million children.¹⁴ Children may end up in forced labour in agriculture as a result of debt bondage, or because an intermediary has lured them or their parents into farm work by promising good working conditions and then selling the children to farmers. The phenomenon is present across the regions, in different forms depending on the country.

35. Lack of a protective environment in production countries, combined with high levels of demand in high-income countries, provides fertile ground for labour exploitation. A study on the situation of children in cocoa farms has highlighted how

¹⁵ Anti-Slavery International, "Home truths: wellbeing and vulnerabilities of child domestic workers" (London, 2013).

¹⁶ ILO, "Marking progress against child labour. Global estimates and trends 2000-2012" (Geneva, 2013).

¹⁷ Lee Sweptson, "Forced and compulsory labour in international human rights law", ILO working paper (Geneva, 2014).

¹⁸ Dorte Thorsen, "Child domestic workers: evidence from West and Central Africa", UNICEF (April 2012).

¹⁹ Catherine Turner, "Out of the shadows. Child marriage and slavery", Anti-Slavery International (London, April 2013).

their families and children themselves are lured by intermediaries into following them to find work, only to be engaged in forced labour without the possibility of leaving.²⁰ The fishing industry has also involved a number of children in forced labour, as a result of various forms of sale, including bonded labour.²¹

36. An ILO study on forced labour in agriculture found that a high proportion of children involved in forced labour had to work to repay debts taken on by their families in lieu of child work, had to work until a family debt was paid off or were born into bondage. Children were recruited by their parents, relatives or recruiting agents, implying that in many instances a transaction had taken place.²²

Manufacturing

37. The sale of children for the purpose of forced labour also happens in the industrial sector, for the production of goods which are sold in domestic and global markets.

38. The carpet-weaving industry is a case in point, which has been extensively documented in South Asia. As employers pay very low or no wages, workers, including children, are compelled to contract debts to survive, which in turn forces them to remain in forced labour/debt bondage. Strategies have also been identified in which the head of the household is offered a loan and the conditions for repayment imply putting the entire family to work in debt bondage for years.²³

39. Reports on the garment industry have also demonstrated the extensive use of forced labour involving children in factories, amounting to slavery-like practices. Child labour is facilitated by the close relationship between employers and parents, who often come from the same village. A system of work in spinning mills was found to involve young women and girls, who are only paid at the end of their three-year contract. They do not get paid if they leave, a situation amounting to forced labour and debt bondage.²⁴ Products made from such labour feed the global retail market, driven by multinational companies in search of lower prices to respond to consumer demand.

Forced begging

40. ILO has defined begging as "a range of activities whereby an individual asks a stranger for money on the basis of being poor or needing charitable donations for health or religious reasons. Beggars may also sell small items, such as dusters or flowers, in return for money that may have little to do with the value of the item for sale".²⁴ Exploiting children through begging is a form of forced labour for which a child's consent cannot be considered valid, and could amount to a practice similar to slavery. Research has documented cases in which a child has been sold or trafficked

²⁰ Paul Robson, "Ending child trafficking in West Africa. Lessons from the Ivorian cocoa sector", Anti-Slavery International (London, December 2010).

²¹ ILO, "Analytical study on child labour in Volta Lake fishing in Ghana" (August 2013).

²² ILO country office for Nepal, "Forced labour of adults and children in the agriculture sector of Nepal" (2013).

²³ Anti-Slavery International, "Slavery on the High Street. Forced labour in the manufacture of garments for international brands" (London, June 2012).

²⁴ ILO, "A rapid assessment of bonded labour in domestic work and begging in Pakistan" (Geneva, March 2004).

for the purposes of forced begging or is in debt bondage.²⁵ Children in a street situation are particularly vulnerable to the practice, given their lack of a protective environment.

41. The European Police Office (Europol) has found that many children are sold and trafficked for the purpose of forced begging. Children may be sold by their families, or pregnant women may be recruited and forced to sell their babies. Children have been sold for up to 40,000 euros.²⁶ According to a comparative study on forced child begging, criminal networks have developed strategies in which they push poor families into debt and then claim the children as a way to pay back those debts. The study found reports of criminal gangs controlling child beggars and practices in which small children were being "rented out" for the purpose of begging.²⁷

Forced criminal activities

42. Criminal activities are among the services children may be forced to undertake and are considered a form of forced labour. ECPAT UK has highlighted the situation of children engaged in forced labour in cannabis production in the United Kingdom of Great Britain and Northern Ireland, who have been trafficked from other countries. The children are forced by organized criminal groups to work in cannabis factories under hazardous conditions and with no possibility of leaving. Criminal groups use debt bondage and threats of reprisals against the children and their families to prevent them from escaping.²⁸

43. Criminal activities may be associated with forced begging when the same organized criminal group exploits children for both activities. Europol has found that children are often forced to commit various types of robbery and theft. Criminal groups ensure obedience through threats, use of force, deprivation and psychological manipulation and may take away their documents.²⁶

Sport

44. The sale of child athletes for competitive training and ultimately profit amounts to a form of sale of children for the purpose of forced labour. It generally features an imbalance of power, in which financial power is used to draw children and their families who are in economic hardship into unfair practices over which they have no control. Recruiters may then treat child athletes as commodities with no rights, whose "value" depends on their capacity to work and from which they expect to make a rapid profit.²⁹

45. Children are often transferred from one country to another and find themselves in an unknown setting, with an uncertain legal status, which binds them to their employer. They may be traded from club to club and forced to train intensively,

²⁵ European Commission, "Report for the study on typology and policy responses to child begging in the EU" (2012).

²⁶ Europol, "Child trafficking for exploitation in forced criminal activities and forced begging" (The Hague, October 2014).

²⁷ Emily Delap, "Begging for change. Research findings and recommendations on forced child begging in Albania/Greece, India and Senegal", Anti-Slavery International (London, 2009).

²⁸ ECPAT UK, "Safeguarding children trafficked to the UK to work in cannabis factories" (2011).

²⁹ Paulo David, *Human Rights in Youth Sport* (Abingdon, Oxon, Routledge, 2005).

under the threat of finding themselves undocumented, having their dreams crushed and with no resources.³⁰

46. In the United States of America, reports have emerged of children being recruited in developing countries and sold to play in basketball teams. They provide accounts of the system behind such recruitment, involving coaches, recruitment agencies and high-level financial transactions, with some children being kept in poor living conditions, ending up in very difficult situations if they do not succeed in securing placement in a team and having to pay huge fees to their coaches.

Armed conflict

47. In situations of armed conflict, children are particularly vulnerable to being sold for the purpose of forced labour. As armed conflicts increasingly focus on control over resources, parties have used children in various forms of child labour, including in mines, in addition to recruitment for military purposes.³¹

48. Various recent and ongoing events have shed light on the relevance of the issue in current conflicts. After the kidnapping of over 200 schoolgirls in Chibok, Nigeria, in 2014 by Boko Haram, the armed group announced it would "sell" them.

49. A report by the Independent International Commission of Inquiry on the Syrian Arab Republic describes how Yazidi women and girls were sold by Islamic State in Iraq and the Levant (ISIL) in slave markets, through auctions and sometimes as groups to be resold individually. In the last year, ISIL fighters have started to hold online slave auctions with pictures and personal details of captured women and girls. The fighters, and sometimes their wives, regularly engage Yazidi women and girls in forced domestic labour, in addition to inflicting systematic sexual violence. Yazidi men and boys over the age of puberty are also engaged in forced labour by ISIL in tasks including construction work, digging trenches and looking after cattle (see A/HRC/32/CRP.2).

D. Factors contributing to the phenomenon

50. Multiple factors increase children's vulnerability to being sold for the purpose of forced labour. Some determinants are linked to the condition of the child and his or her family, others stem from the demand for various forms of forced labour and yet others have to do with the overall environment in which the phenomenon takes place.

1. Push factors

51. Socioeconomic factors are prominent determinants of the sale of children for the purpose of forced labour. Studies on child labour in domestic work have highlighted how poverty is a constant variable underlying the practice, sometimes to repay family debts.¹⁴ Targeting poor families has been found to be part of a

³⁰ UNICEF Innocenti Research Centre, "Protecting children from violence in sport: a review with a focus on industrialized countries" (Florence, 2010).

³¹ UNICEF, "Machel Study 10-year strategic review. Children and conflict in a changing world" (New York, 2009) and Free the Slaves, "Congo's mining slaves. Enslavement at South Kivu mining sites" (Washington, D.C., 2013).

deliberate strategy by recruiters, especially in cases where the sale of children for the purpose of forced labour involves organized criminal groups or intermediaries.²³

52. Families living in poverty may be confronted by events affecting the family's income, such as the loss of a job, an economic crisis or a natural disaster affecting production, or the illness or death of the family's breadwinner. The impact of such shocks may drive families into survival strategies, resorting to debt or delivering children for the purpose of labour or other forms of exploitation. Children from families with only one or no living parent have been found to be particularly vulnerable to being exploited for domestic work or fishing.^{14, 21}

53. There is evidence from research that the literacy level of a child's parents or caregivers, and in particular that of the head of the household, is a determinant of vulnerability to child labour. The literacy level has been found to be lower for children in forced labour than for those not in forced labour.³²

54. Discrimination on the basis of age, gender and ethnicity and caste also increases the vulnerability of children to being sold for the purpose of forced labour. With limited exceptions, forced labour victims are much younger than those freely employed.³³ Gender primarily affects the type of exploitation to which children are vulnerable. The sale of children for forced labour in domestic work or for servile marriage mainly affects girls. They respond to common perceptions that girls will be safe and protected and, in the case of domestic work, prepared for married life.¹⁴ Other forms of forced labour, such as forced begging, chiefly involve boys.²⁸

55. Children are more vulnerable to exploitation through begging when they come from poor families and belong to groups particularly affected by social exclusion and discrimination, such as the Roma.²⁶ Ethnicity has also been found to be a factor in the vulnerability of children to being engaged in exploitative forms of domestic work.¹⁴ The Special Rapporteur on minority issues has stressed how caste systems perpetuate discrimination and forced labour and slavery-like practices (A/HRC/31/56).

56. Various studies have highlighted the impact of migration on children's vulnerability to being sold and trafficked. A UNICEF publication refers to unaccompanied children having to pay smugglers to be able to continue their journey, a situation that makes them particularly vulnerable to being indebted to smugglers and sold for various forms of exploitation.³⁴ Migration by carers may also make children vulnerable to being sold for the purpose of forced labour.²¹ The large number of children left behind by parents migrating to sustain the family may also constitute a factor of vulnerability.

2. Demand

57. Demand is an important factor behind the sale of children for the purpose of forced labour. It encompasses the individual offenders who offer and receive the child, expecting some benefit through his or her exploitation; intermediaries who service the demand; and the constructs that create an environment in which the sale of children for the purpose of forced labour is either ignored, tolerated or accepted (see A/HRC/31/58).

³² ILO, *Profits and Poverty: The Economics of Forced Labour* (Geneva, 2014).

³³ Ibid.

³⁴ UNICEF briefing note, "Protecting children on the move" (November 2015).

58. The immediate level of demand covers those who directly exploit children through transactions for the purpose of forced labour. They turn to intermediaries or traffickers to find and recruit victims.

59. The intermediate level of demand is composed of those who act as facilitators between children and those who exploit them, hence the intermediaries whose involvement is motivated by gain. They may receive the child from families who entrust them to take care of him or her, pay families to receive the child, or be paid by families. They then sell the child to employers for forced labour. The role of intermediaries has received increased attention in recent years as a determining factor in the recruitment of workers in exploitative conditions.

60. Inadequate monitoring and regulation of the activities of intermediaries can easily result in abusive practices. Intermediaries may use deceptive methods to lure families into releasing a child, or attract children into situations amounting to forced labour. The high fees required for the service is likely to put children and families in situations of debt bondage. Intermediaries may manage the full placement process, taking care of all necessary documents, which are then confiscated, preventing victims from leaving. Intermediaries may be directly linked with criminal networks aiming to exploit workers. Lack of work contracts and dependency on the recruiter for documentation and debt repayment paves the way for forced labour. In most cases, recruiters are aware of the forced labour conditions in which children end up and use deception to recruit them.³⁵

61. Final demand from consumers paves the way for complex and globalized supply chains, which are driven by competition for price and lack adequate monitoring and transparency mechanisms to ensure fair working practices at the bottom of the chain. As highlighted by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, "the lower levels have been shown to be at risk of products or raw materials being sourced from home-based or small workshops in the informal economy and made in situations of debt bondage, forced labour or the worst forms of child labour" (A/HRC/30/35). The flexibility of supply chains, which enables major companies to quickly move production from one area to another, may also affect the economic balance in specific areas, creating a shock that families may cope with by resorting to the sale of children for forced labour.³⁶

62. The phenomenon of "voluntourism" deserves particular attention: this is "a term used to describe short-term volunteering placement by tourists as part of their overall vacation or travel in a country".³⁷ "Orphanage voluntourism" is one such practice, which has fed a system leading to the sale of children for the purpose of labour exploitation. Research has provided evidence of systems in which the owners of orphanages use intermediaries to get children who look poor to orphanages, in order to satisfy a fee-based volunteering demand, generating significant profits. Traffickers lure poverty-stricken families into giving away their children, under promises of good living conditions and education. Children are then often left in

³⁵ UNODC, "The role of recruitment fees and abusive and fraudulent practices of recruitment agencies in trafficking in persons" (Vienna 2015).

³⁶ ILO, "Decent work in global supply chains", report to the 105th session of the International Labour Conference (2016).

³⁷ Next Generation Nepal, "The paradox of orphanage volunteering. Combating child trafficking through ethical voluntourism" (2014).

poor conditions, in order to prompt foreign charity, and forced to perform activities to please foreign volunteers.³⁸

63. The underlying level of demand is related to the social, cultural, gender and institutional constructs that foster the conditions in which the sale of children for the purpose of forced labour is socially accepted, thus facilitating the crime. Social acceptability of domestic work has been found to determine not only the extent of the use of children in such activities, but also the way the children are treated.³⁹

3. Governance factors

64. Weak governance systems create a rule of law vacuum in which the sale of children and forced labour can prosper. However, even in countries with solid governance structures, hidden forms of exploitation may be difficult to detect. Corruption has been identified as a major factor facilitating trafficking in persons.⁴⁰ Limited effective labour inspection has also been identified as a factor easing the use of forced labour.

65. During conflict, armed groups destroy the social and economic environment and interrupt the delivery of social services, dismantling a protective environment for children and driving the population into dire poverty.⁴⁰ Families may entrust their children to intermediaries who then exploit them for various purposes. The long-lasting effects of institutional breakdown enable trafficking to flourish and lead to its persistence after a conflict has ended (see A/HRC/32/41).

E. Impact on the rights of the child

66. The sale of children for the purpose of forced labour violates multiple rights of the child, increasing children's vulnerabilities and impairing their development to the fullest potential.

Right to protection from violence, abuse and exploitation

67. Due to the control their employers exercise over them, children sold for the purpose of forced labour are particularly vulnerable to violence and abuse. For example, child labour in domestic work makes children vulnerable to sexual violence and abuse, as well as beatings and degrading treatment.⁴¹ Children, in particular girls, involved in forced labour in manufacturing, such as the garment industry, are often victims of sexual violence.⁴² In armed conflict, systematic sexual violence and enslavement is often a daily reality for girls (see A/HRC/32/CRP.2).

Right to development

68. Children's right to development to their fullest potential is also seriously affected. Children engaged in forced labour do not have access to an adequate standard of living, including appropriate shelter, food, water and sanitation. Those

³⁸ Bread for the World — Protestant Development Service, Working Group Tourism and Development and ECPAT Germany, "From volunteering to voluntourism. Challenges for the responsible development of a growing travel trend" (Berlin, March 2015).

³⁹ UNODC, "The role of corruption in trafficking in persons" (Vienna, 2011).

⁴⁰ UNICEF, "Machel Study 10-year strategic review. Children and conflict in a changing world" (New York, 2009).

that are sold for the purpose of forced labour are frequently out of school or have no access to education. As a result, they lack access to the skills needed for their development and life options, and are deprived of opportunities to know their rights and develop the competencies to protect themselves from abusive situations.

69. Children's right to health is also often breached. Forced labour activities are often harmful to the child's physical health, as they involve physical activities or positions that negatively affect their physical development. In some instances, children may be drugged for forced begging.²⁶ Mental health and self-confidence can also be affected, in light of the numerous vexations and degrading treatments to which children are subjected. Employers may also seriously limit access to health services.

Right to a family environment

70. Children sold for the purpose of forced labour are routinely separated from their parents and families and have little or no opportunity to interact with them. Isolation from the family environment affects children's emotional and intellectual development and well-being. It also undermines children's protective environment and makes them more vulnerable to other violations. However, in many cases parents are engaged in the transaction in which the child is sold for the purpose of forced labour.

Right to be heard

71. In situations of the sale of children for the purpose of forced labour, children's right to be heard is seriously undermined, since they are treated as commodities and left with no possibility to choose or influence their lives. Younger children are particularly vulnerable and making them unable to express their concerns is often a strategy used by traffickers to keep control over them.²⁰

72. Children's civil and political rights, including the right to information, freedom of expression and freedom of association, are also breached when a child is sold for the purpose of forced labour. The inability to form an association with other children in similar conditions to claim their rights makes children even more vulnerable. Lack of information on existing laws and possible remedies is another factor of vulnerability which impedes redress for child victims.

F. Comprehensive strategies to prevent and eliminate the phenomenon

73. Combating the crime of sale of children for the purpose of forced labour requires multidimensional interventions at all levels to address the systemic aspects lying behind the phenomenon and its multiple manifestations. The child rights framework, set by the Convention on the Rights of the Child and other relevant international instruments, offers a basis for the design and implementation of such interventions. In particular, approaches need to take into consideration children's evolving capacities to make decisions about their lives and the possibility to contribute by working, while respecting international standards related to minimum working ages.

1. A clear legal framework

74. Article 3 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography requires States parties to criminalize the sale of children for the purpose of forced labour in their legislation, including when committed by legal persons (for example, companies). Overlap with other similar yet different crimes (such as trafficking) means that legislation is likely to criminalize acts relating to slightly different situations, while overlooking the specificities of the crime of the sale of children for the purpose of forced labour, which results in impunity. Moreover, the limited implementation of legislation, in particular the difficulty of providing sufficient evidence to prove the offence in court, may lead to few convictions and low penalties for perpetrators.⁴¹ A clear legal framework should also guide a solid data collection system based on primary quantitative and qualitative research into the phenomenon.

2. Protecting the rights of victims, including effective remedy

75. The rights of child victims of sale for the purpose of forced labour to care, recovery and reintegration are recognized in article 39 of the Convention on the Rights of the Child and article 9.3 of its Optional Protocol on the sale of children, child prostitution and child pornography. However, in many instances, child victims may be treated as perpetrators, or may not be sufficiently recognized as victims in legislation in order to benefit from targeted measures. For example, children engaged in forced begging may be perceived as committing an offence rather than referred to support services. Similarly, children forced to engage in criminal activities may be considered as criminals instead of victims.²⁵

76. Identification of victims is a critical first step towards ensuring the application of a protective framework. However, child victims receive limited attention and are rarely identified as such.⁴² The justice system uses criminal approaches instead of referring child victims to child protection systems. Limited capacities and lack of placement options are cited as underlying reasons, as well as the prejudices of some actors vis-à-vis child victims.⁴³

77. Access to an effective remedy is particularly important for preventing the phenomenon. Children who have been sold and are engaged in forced labour are often isolated, with no access to remedy. The vulnerability that is specific to the relationship of dependency with the employer presents specific challenges, in addition to the need for child-sensitive access to justice and redress mechanisms. Such children may distrust the police, fear retaliation and lack the documentation for legally staying in the country concerned.

78. Independent human rights institutions across the regions have focused on child labour as one of their priorities, thereby exercising their monitoring function over the topic.⁴⁴ Their role in that respect must be strengthened, in particular through effective legal means to visit places where children are at risk of exploitation,

⁴¹ European Commission, "Study on case-law relating to trafficking in human beings for labour exploitation" (Brussels, 2015).

⁴² Olivier Peyroux, *Fantasies and Realities Fuelling Child Trafficking in Europe* (Lambert Academic Publishing, 2016).

⁴³ Ibid.

⁴⁴ UNICEF Office of Research Innocenti, "Championing children's rights. A global study of independent human rights institutions for children" (Florence, October 2012).

adequate capacities, including financial and human resources, and a strong presence across the country.⁴⁵

79. However, ensuring effective remedy for rights violations involving the private sector requires adequate laws and policies. The Office of the United Nations High Commissioner for Human Rights has issued guidance on improving accountability and access to remedy for victims of business-related human rights abuse. It underlines the role of solid legal frameworks, which make it possible to hold companies criminally accountable for their actions, including when committed by third parties but with their contribution, through adequate procedures and deterring sanctions, effective enforcement mechanisms, coherent policy packages and support for victims in accessing remedies (see A/HRC/32/19).

3. Regulation of intermediaries

80. Awareness of the important role of intermediaries has given rise to various initiatives to try and regulate their practices. Social partners for the temporary agency sector signed a memorandum of understanding in 2008 to avoid the negative effects of competition in the labour market on workers' rights and conditions. In 2015, the International Confederation of Private Employment Services adopted a new code of conduct for its members, which reiterates the prohibition on charging fees to jobseekers and provides for a complaint mechanism if a member breaks the rule. While those are positive steps, codes of conduct are not legally binding.

81. Increased attention has also been paid to the need for due diligence, a process whereby private companies are called upon to ensure respect for human rights standards and to set up adequate mechanisms to that end. The European Commission has devoted specific attention to the situation of employment and recruitment agencies in that context, issuing a guidebook inviting such agencies to consider the impact of their practices on human rights, including in countries with weak legal and institutional frameworks.⁴⁶

82. All stakeholders must take into account the informal nature of most intermediaries and the wide range of services they perform, in order to adopt adequate policies to promote and monitor fair recruitment processes for decent work conditions and deter intermediaries from delivering and/or selling children for exploitation.

83. Some countries have taken steps to enhance transparency and prohibit the sale of products that have involved the use of child labour or forced labour, in order to prevent the crime. Legislation in the United States prohibits importation of goods produced by forced child labour.⁴⁷ An executive order of 1999 ensures that federal agencies in the United States do not procure goods made by forced or indentured child labour.⁴⁸ In addition, the Department of Labor must publish a list of products

⁴⁵ See for example, Ombudsperson for Children Acts of 2003 of Croatia and of Mauritius.

⁴⁶ European Commission, "Employment and Recruitment Agencies Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights" (Brussels, 2012).

⁴⁷ United States of America, Tariff Act, *Harmonized Tariff Schedule of the United States*, chap. 4, sect. 1202 (1930) and Trade Facilitation and Trade Enforcement Act of 2015, Public Law No. 114-125, sects. 101-118.

⁴⁸ United States, Executive Order 13126 (Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor), 64 Fed. Reg. 32383 (16 June 1999).

believed to have been produced by forced or indentured child labour.⁴⁹ If it is found that forced or indentured labour was involved, the contract will be terminated and eligibility as a supplier suspended for three years.⁴⁵

84. The United Kingdom Modern Slavery Act of 2015 introduced an obligation for companies whose total turnover is above £36 million to submit an annual statement detailing the steps they have taken to ensure there is no modern slavery in their business and supply chains. The obligation goes beyond guaranteeing that products are free of slavery and requires concrete steps at every stage of the production process in any part of the supply chain.⁵⁰

4. Labour inspection

85. Effective and well-resourced labour inspection is an essential institutional component of a preventive and protective environment. As highlighted in the ILO handbook for labour inspectors in relation to forced labour and human trafficking, forced labour is part of the seriously exploitative situations that labour inspectors are meant to monitor. Inspections of the health and safety of workers can provide indications that forced labour is taking place and that underage children are at work. Labour inspectors can enter private premises in carrying out their mandate without a search warrant and have a range of discretionary powers.⁵¹ ILO has also issued a booklet detailing 11 forced labour indicators aimed at front-line law enforcement officials, labour inspectors, non-governmental organizations and other relevant stakeholders. The publication aims to help them quickly detect forced labour situations, even if not specifically focused on children.⁵²

86. There have been initiatives aimed at filling the inspection gap by offering a social label on the production of goods. For instance, the GoodWeave certification ensures that rugs are made without child labour, forced labour or bonded labour.⁵³ By joining the programme, rug exporters and importers issue an assurance that no child labour was used in the making of a rug and accept unannounced visits by GoodWeave inspectors.⁵⁴

5. Public-private partnerships

87. International standards emphasize the importance of cooperation between the public sector and the business sector in addressing the exploitation of children. The United Nations Global Compact and the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex) provide guidance on the obligations of States to promote and support businesses and the corresponding corporate responsibility to respect human rights.

⁴⁹ United States Department of Labor, "Frequently asked questions: Executive Order 13126 of 1999" (30 September 2013) available from https://www.dol.gov/ilab/reports/pdf/2013eo_faq.pdf.

⁵⁰ Government of the United Kingdom, Home Office, "Transparency in supply chains etc. A practical guide" (2015).

⁵¹ Beate Andrees, "Forced labour and human trafficking: handbook for labour inspectors" (Geneva, ILO, 2008).

⁵² ILO, "ILO Indicators of forced labour" (Geneva, October 2012).

⁵³ GoodWeave International, "Generic international standard for rug producers", version 3.0 (January 2016).

⁵⁴ See www.goodweave.org/about/child_labor_free_rugs.

88. Various sectors have attempted to develop multi-stakeholder initiatives to prevent and monitor the use of forced labour. The International Cocoa Initiative was established in 2002 through a partnership between the cocoa industry, civil society and national Governments in cocoa-producing countries. It aims to eliminate the worst forms of child labour and forced labour in the production of cocoa beans and derivative products.⁵⁵

89. In Thailand, the canned tuna production industry has set up solid oversight mechanisms and improved labour standards. In 2005 in Brazil, the national authorities launched the National Pact for the Eradication of Slave Labour, a multi-stakeholder initiative bringing together public and private companies. The pact includes commercial restrictions on companies using slave labour, promotes decent work and aims to raise awareness among groups at risk of slave labour. The Ministry of Labour also publishes a list with the names of companies and employers who have been caught using forced labour.

6. International cooperation

90. The adoption of the Sustainable Development Goals has given a renewed impetus to international cooperation in combating the exploitation of children. The need to foster multi-stakeholders partnerships across countries to address the phenomenon has led to the development of an alliance around Goal 8.7, which aims to eliminate forced labour, modern slavery, human trafficking and all forms of child labour. Alliance 8.7 seeks to gather a range of actors, from Governments, civil society, international organizations, academia, representatives of employers and employees and the private sector, towards the realization of Goal 8.7.

91. Similarly, the Global Partnership to End Violence against Children gathers actors around the Goals related to the issue, in particular Goal 16.2 for the elimination of all forms of abuse, trafficking and exploitation of, and violence against, children.

92. Transnational cooperation in the management of cases is essential, yet limited. Research on children engaged in forced begging has highlighted the importance of transnational cooperation, as criminal groups transport children from one country to another. In Europe, for example, no joint database exists to inform various countries that a child is a trafficking victim, implying that children may be identified as victims in one country, but then treated as criminals in another, as they are moved by traffickers.⁵⁶ A study on transnational referral mechanisms in South-Eastern Europe has found that the development of common legislation and an implementing framework, and in particular standard operating procedures, have helped to improve transnational cooperation.⁵⁷

7. Prevention

93. Article 9 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography lists an overarching

⁵⁵ See the charter of the International Cocoa Initiative, available from www.cocoainitiative.org/en/documentsmanager/english/27-ici-charter/file.

⁵⁶ Olivier Peyroux, *Fantasies and Realities*, chapter 6.

⁵⁷ International Centre for Migration Policy Development, "The way forward in establishing effective transnational referral mechanisms. A report based on experiences in cases of human trafficking in South-Eastern Europe" (Vienna, 2012).

set of measures for the prevention of the crimes covered by the treaty, including the sale of children for the purpose of forced labour. Prevention measures must address the factors that make children vulnerable to being sold for the purpose of forced labour. Hence, any initiatives in that regard should include measures to ensure social protection and safe migration.

94. Social policy measures that ensure a minimum standard of living and protect families in case of shocks have been found to be particularly effective in preventing labour exploitation and trafficking. An ILO report which focused on social protection as an instrument to eliminate child labour, found that cash transfers were more effective among children from poorer backgrounds and when coupled with other interventions, such as the provision of health and education services.⁵⁸ Similarly, health insurance and pension and unemployment benefits can help families cope with a shock which renders a family member unable to work and avoid them resorting to child labour to compensate for loss of income or to pay for treatment. Interventions aimed at supporting parents, such as a public employment programme, may also have a positive effect as long as they do not result in children simply taking the place of their parents in their former jobs.⁵⁹

95. Many children end up being sold for the purpose of forced labour by traffickers and recruiters they or their parents had trusted in their search for better living conditions. As many children migrate on their own or in the hands of intermediaries or organized groups, it is important to recognize their agency in deciding what is best for themselves, while at the same time providing the conditions for safe migration.

96. An ILO study on international migration and child labour has underlined the importance of promoting safe behaviours in relation to migration, by supporting adolescents in adequately informing themselves and properly preparing for the journey, preferably by securing a job contract before leaving.⁶⁰ However, in some instances, the contract is part of the migration arrangement itself, paving the way for exploitative conditions.⁶¹ Studies have also stressed the importance for countries of avoiding legislative frameworks in which a legal stay is conditioned to one employer, as it paves the way for dependency on that employer.⁶²

IV. Conclusions and recommendations

97. **The sale of children for the purpose of forced labour is a multifaceted phenomenon with diverse root causes, risk factors, manifestations and effects. Families may use the sale of children for the purpose of forced labour as a**

⁵⁸ ILO, "World report on child labour. Economic vulnerability, social protection and the fight against child labour" (Geneva, 2013).

⁵⁹ Ibid.

⁶⁰ Hans van de Glind and Ann Kou, "Migrant children in child labour: a vulnerable group in need of attention" in *Children on the Move* (Geneva, International Organization for Migration, 2013).

⁶¹ International Organization for Migration, "Egyptian unaccompanied migrant children: a case study on irregular migration" (Cairo, 2016); UNICEF and Trajectoires, "Ni sains, ni saufs. Enquête sur les enfants non accompagnés dans le nord de la France" (June 2016).

⁶² European Commission, "Employment & Recruitment Agencies Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights" (Brussels, 2012); ILO, "Hard to see harder to count. Survey guidelines to estimate forced labour of adults and children" (2012).

coping strategy for survival. Children, whether sold or entrusted to a third party, may fall into the hands of traffickers, who will in turn sell them for forced labour. They may also end up under the control of criminal organized groups. Demand for products with competitive prices is also a pull factor for the sale of children for forced labour and labour exploitation. In conflict situations, lawlessness and social, economic and institutional breakdown, as well as deliberate conflict strategies, may lead children to be abducted and sold for the purpose of forced labour.

98. The present study has shown that when harmful practices are socially accepted, protective factors are low and pull factors strong, a child can be sold and exploited in forced labour conditions. Addressing the issue therefore requires comprehensive approaches that take into account the demand factor as well as the specific vulnerabilities of children being sold for the purpose of forced labour, while recognizing children as rights holders, entitled to protection but also to recognition of their agency in function of their evolving capacities.

99. The Special Rapporteur invites all States to:

(a) Adopt and implement clear and comprehensive legislation which criminalizes the sale of children for the purpose of forced labour and the conditions leading to it, such as debt bondage;

(b) Ensure that the burden of proof allows for investigations, that prosecutions can be initiated *ex officio* and that sanctions rendered by courts are proportionate to the grave nature of the crime in order to deter it;

(c) Guarantee that effective remedies are available and accessible for children, through child-sensitive complaint and reporting mechanisms and child-sensitive justice proceedings, and by ensuring the reduction of barriers that could deny access to remedies. Commensurate compensation should also be part of the remedies;

(d) Ensure that the rights of child victims are fully respected, including when they are forced to engage in illegal activities. They should not be criminalized and have the right to receive comprehensive care, recovery and reintegration services;

(e) Carry out primary research and collect qualitative and quantitative data to better understand the situation of children sold for the purpose of forced labour and the factors of vulnerability, in order to develop adequate interventions;

(f) To ensure the full liability of companies and their supply chains, including legal persons, whose activities contribute to the sale of children for the purpose of forced labour;

(g) Regulate the role of intermediaries, ensuring that they do not charge fees for job placements and hold them accountable for situations leading to the forced labour of children. Regulation and monitoring mechanisms should also take into account the often informal nature of intermediaries;

(h) Strengthen governance structures which ensure an adequate labour inspection system and limit corruption, implement adequate sanctions for

non-compliance and strengthen the role of independent human rights institutions in monitoring labour conditions;

(i) Support the private sector in establishing mechanisms for monitoring and ensuring the accountability of subcontractors at all levels of the supply chain;

(j) Establish and open more regular migration channels and ensure the protection of all human rights in employment. Residence permits should not be linked to an employer, thus enabling migrant workers to change employment in case of abuse;

(k) Adopt measures which prevent the phenomenon, in particular by strengthening the resilience of families when faced with shocks, through social protection and health coverage, the promotion of literacy and access to education, and by raising awareness of and facilitating non-exploitative income-generating opportunities;

(l) Address the root causes of the demand for the forced labour of children through comprehensive awareness-raising and the education of society at large on the rights of the child, non-discrimination and gender equality;

(m) Ensure that policies aimed at protecting children and reducing their vulnerability also respect their right to make decisions about their own lives, in accordance with their evolving capacities;

(n) Ensure that children who have been sold for the purpose of forced labour have the ability to be heard and contribute to developing strategies to address the phenomenon in a way that ensures that their rights and needs are taken into account.

100. The Special Rapporteur invites the international community to:

(a) Develop and further transnational cooperation between law enforcement services to ensure the tracking of child victims of sale and trafficking for forced labour;

(b) Promote multi-stakeholder initiatives fully involving the private sector, including at the level of each economic sector, to promote good practices and internal oversight;

(c) Encourage consumers to play a more active role in scrutinizing the origin of products and promoting ethical sourcing and other fair trade initiatives;

(d) Actively participate in and support Alliance 8.7 and the Global Partnership to End Violence against Children, both of which aim to achieve the Sustainable Development Goals to ensure that children grow up free from violence and exploitation.

101. The Special Rapporteur invites the private sector to:

(a) Adopt human rights policy commitments and conduct continuous human rights due diligence in line with the framework established in the Guiding Principles on Business and Human Rights, which also apply to supply chains;

(b) Effectively implement those commitments beyond auditing, through third-party independent monitoring, proactive investigations, random unannounced assessments and strategies linked to the prevention of the sale of children;

(c) Take steps to facilitate access to justice and effective remedies, in particular in countries where governance systems are fragile, and take full corporate social responsibility, including through adequate compensation.



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**Security Council
Seventy-first year**

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the fourth annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1).

* A/71/150.



Letter of transmittal

**Letter dated 1 August 2016 from the President of the International
Residual Mechanism for Criminal Tribunals addressed to the
President of the General Assembly and the President of the
Security Council**

I have the honour to submit the fourth annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2016, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(Signed) Theodor Meron
President

Summary

Fourth annual report of the International Residual Mechanism for Criminal Tribunals

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2015 to 30 June 2016, which brought to a close the first period of operations of the Mechanism, spanning four years, as prescribed by the Security Council in resolution 1966 (2010). It will be followed by a new, two-year period of operations.

The Mechanism was established by the Security Council to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia after the closure of the two Tribunals. Those functions include attending to a wide range of judicial matters, locating and arresting remaining fugitives, providing protection to witnesses, supervising the enforcement of sentences and managing the archives of the two Tribunals.

With branches in Arusha, United Republic of Tanzania, and The Hague, the Netherlands, the Mechanism is operating on two continents and continues to draw upon the best practices of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and other tribunals, while also actively pursuing new ways to improve its operations, procedures and working methods so as to maximize its effectiveness and efficiency. The Mechanism is guided in its activities by the Security Council's emphasis on it being a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions.

During the reporting period, the President supervised matters relating to the management of the Mechanism, coordinated the work of the Chambers, presided over the Appeals Chamber and issued a large number of orders and decisions on issues including the enforcement of sentences, the assignment of counsel and legal aid. The Mechanism's Trial Chambers have been seized of a retrial during the reporting period and of a request for revocation of a referred case, while the Appeals Chamber is seized of two appeals from judgment and has issued a number of decisions in those and other cases. In addition, single judges issued a large number of orders and decisions on a range of matters, including assisting national jurisdictions through ruling on requests for variations of protective measures and requests for access to confidential information.

The Office of the Prosecutor focused on three priorities: (a) locating and arresting fugitives; (b) the expeditious completion of trials and appeals; and (c) assistance to national jurisdictions. The Office of the Prosecutor also continued to perform its responsibilities in respect of other residual functions, including handling the large volume of non-trial and appeal litigation before the Mechanism.

The Registry provided and coordinated the administrative, legal, policy and diplomatic support services for the Mechanism. As part of its substantive functions, the Registry offered protection and support services to witnesses, worked on multiple aspects of the enforcement of sentences handed down by the Tribunals and supported the Tribunals in the preparation of records and archives for transfer to the

Mechanism. As part of its administrative functions, the Registry supported all the organs of the Mechanism in completing recruitment and continued the gradual process of establishing the Mechanism's own self-standing capacity. The Registry is also managing the construction of the new premises for the Arusha branch.

I. Introduction

1. The fourth annual report of the Mechanism outlines the activities of the Mechanism for the period from 1 July 2015 to 30 June 2016, which brings to a close the first period of operations of the Mechanism, spanning four years, as prescribed by the Security Council in resolution 1966 (2010).
2. The Mechanism's mandate includes ensuring the trial of the remaining fugitives. While the International Tribunal for the Former Yugoslavia has no outstanding fugitives charged with serious violations of international humanitarian law, eight individuals indicted by the International Criminal Tribunal for Rwanda are still at large. Three of the eight are expected to be tried by the Mechanism and the cases of the remaining five have been referred to Rwanda for trial.
3. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the modalities specified in the transitional arrangements. These activities concern retrials of cases completed by the two Tribunals, appeals of their judgments and sentences, reviews of their proceedings, and contempt of court and false testimony cases.
4. In addition, the Mechanism has been tasked with assuming certain functions of the two Tribunals, including: the protection and support of victims and witnesses who have testified in the Tribunals' cases; management of the Tribunals' archives; supervision of the enforcement of Tribunal sentences; responding to requests for assistance from national authorities; and monitoring cases referred to national courts by the Tribunals.
5. During the reporting period, the Mechanism conducted a range of judicial and other activities within its remit. The Mechanism also further developed its legal and regulatory framework.

II. Activities of the mechanism

A. Organization

6. The Security Council established that the Mechanism would operate for an initial four-year period, starting from 1 July 2012. Unless the Council decides otherwise, the Mechanism shall continue to operate for subsequent periods of two years, following reviews by the Council of the progress of the Mechanism's work, including in completing its functions. The Council completed its first review of the progress of the Mechanism's work in December 2015, as set forth in Security Council resolution 2256 (2015) and reflected in General Assembly resolution 70/227.
7. The Mechanism consists of three organs, which serve both branches of the Mechanism: (a) the Chambers from which single judges can be appointed and trial and appeal benches formed as needed, and which is presided over by the President; (b) the Prosecutor; and (c) the Registry, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.
8. Each organ is headed by a full-time principal, common to both branches. The President of the Mechanism is Judge Theodor Meron. The Prosecutor for the

Mechanism is Serge Brammertz, who concurrently serves as the Prosecutor of the International Tribunal for the Former Yugoslavia. The Mechanism's Registrar is John Hocking, who concurrently serves as the Registrar of the International Tribunal for the Former Yugoslavia. During the reporting period, the initial terms of appointment of the Mechanism's original principals came to an end. Renewed appointments were made with respect to the President and the Registrar, while Mr. Brammertz was appointed to replace the Mechanism's first Prosecutor, Hassan Bubacar Jallow.

9. The Mechanism has a roster of 25 independent judges, elected by the General Assembly to serve a four-year term. During the reporting period, Judge Seymour Panton was appointed to serve as a judge of the Mechanism following the resignation of Judge Patrick Robinson. At the close of the reporting period, the initial terms of appointment of the judges of the Mechanism came to an end. New appointments were made with respect to all judges of the Mechanism for a term of two years, effective 1 July 2016.

B. Legal and regulatory framework

10. An agreement between the United Nations and the Netherlands concerning the branch of the Mechanism at The Hague was signed on 23 February 2015. Upon its entry into force on 1 September 2016, this agreement will, *inter alia*, regulate matters relating to the proper functioning of the Mechanism in the Netherlands, facilitate its smooth and efficient functioning and create conditions conducive to the Mechanism's stability and independence.

11. As provided by article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence and any such amendments shall take effect upon adoption by the judges of the Mechanism, unless the Security Council decides otherwise. On 18 April 2016, the judges, through remote written procedure, adopted an amendment to rule 24 of the Rules whereby the designated Duty Judge at the Arusha branch of the Mechanism would assume the functions of the President temporarily if the latter were not to remain in office or were unable to carry out the functions of the President.

12. The Mechanism further developed procedures and policies building upon the best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. During the reporting period, the Mechanism adopted new practice directions on the procedures for amending the Rules and for implementing rule 110 (B) on the admission of written statements into evidence, respectively. In addition, the Registrar adopted a number of legal aid policies applicable to counsel representing and persons assisting eligible accused persons before the Mechanism.

C. Mechanism Coordination Council

13. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an *ad hoc* basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, *inter alia*, matters concerning relations with Rwanda and countries of the former Yugoslavia, the strategic plan on acquitted

persons and persons released following enforcement of sentence, and other matters of common concern.

D. Rules Committee

14. Following the issuance in May 2016 of a practice direction on the procedures for amending the Rules, the Mechanism's Rules Committee was reconstituted. The Committee is currently considering a number of proposals for amendments to the Rules.

E. Coordination with other tribunals

15. During the reporting period, the Mechanism has co-existed with both the International Criminal Tribunal for Rwanda, until its closure on 31 December 2015, and the International Tribunal for the Former Yugoslavia and has benefited greatly from its two predecessor institutions, receiving significant operational and administrative support from them. The principals and staff of all three institutions have worked together closely and shared institutional knowledge, expertise and lessons learned, with a view to ensuring that the progressive transfer of functions from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia to the Mechanism is as efficient and seamless as possible.

III. Activities of the President and the Chambers

A. Principal activities of the President

16. The President, in his capacity as the head of the Mechanism, has engaged in many issues related to the representation and management of the Mechanism. He has represented the Mechanism in a variety of external forums, developed and contributed to the development of various policies and guidance documents, and held regular meetings with the Registrar on operational matters subject to the President's overall authority.

17. As mandated by the statute, during the reporting period, the President submitted two six monthly reports to the Security Council on the progress of the Mechanism and twice briefed the Security Council on the work of the Mechanism, in December 2015 and June 2016. Also as mandated by the statute, the President submitted the Mechanism's annual report to the General Assembly and the Security Council (A/70/225-S/2015/586) and briefed the General Assembly in October 2015. In accordance with a statement by the President of the Security Council of 16 November 2015, the Mechanism submitted a report (S/2015/896) on 20 November 2015 concerning the progress of its work in the initial period, including in completing its functions.

18. During the reporting period, the President engaged with State officials in Arusha, The Hague and other locations, as well as with victims' groups and members of civil society.

19. In his judicial capacity, the President coordinated the work of the Chambers with a view to achieving efficiencies and making best use of the diverse array of

judicial expertise and legal cultures reflected in its roster of 25 judges, including by providing broad and even distribution of judicial work among the judges, ensuring the full readiness of the Chambers in the event of the apprehension of fugitives and working with fellow judges and senior staff to explore ways to maximize smooth and cost-effective functioning of the Chambers more generally, given the Mechanism's novel structure. He also issued numerous assignment orders and ruled on requests for administrative review relating to matters such as the assignment of counsel and the granting of legal aid. In addition, the President presided over the Appeals Chamber and is serving as the pre-appeal judge in the cases of *Radovan Karadžić* and *Vojislav Šešelj*. With respect to the supervision of the enforcement of sentences, the President issued numerous orders and decisions relating to the designation of enforcement States, applications for early release of persons convicted by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, and other public and confidential matters. He also addressed reports and complaints concerning the conditions of detention of convicted persons serving sentences under the supervision of the Mechanism.

B. Principal activities of single judges

20. During the reporting period, 16 single judges at the Arusha and Hague branches were seized of and issued orders or decisions in relation to numerous requests concerning assistance to national jurisdictions, the translation of filings, access to confidential information, the variation of protective measures, allegations of contempt and false testimony, changes in the classification of filings, and compensation. Collectively, more than 126 decisions or orders were issued during the reporting period and, as at 30 June 2016, single judges were seized of 12 matters, including three cases involving allegations of contempt or false testimony. A single judge was further assigned to conduct an inquiry into the circumstances surrounding the death of Zdravko Tolimir while in custody at the United Nations Detention Unit in The Hague. A report to the President regarding the findings of the single judge will be issued once all the necessary information is received.

C. Principal activities of the trial chambers

21. On 22 October 2015, a trial chamber at the Arusha branch, composed of Judges Vagn Joensen, presiding, William Sekule and Florence Arrey, issued a decision dismissing Jean Uwinkindi's request for the revocation of his referral to Rwanda. The Trial Chamber issued nine additional decisions or orders in the course of the first-instance proceedings relating to this matter.

22. On 17 December 2015, the President assigned a Trial Chamber at the Hague branch, composed of Judges Burton Hall, presiding, Seon Ki Park and Solomy Balungi Bossa, to conduct the full retrial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia in December 2015 in the case of *Jovica Stanišić and Franko Simatović*. On 18 December 2015, Mr. Stanišić and Mr. Simatović pleaded not guilty at their initial appearance and, on 22 December 2015, the Trial Chamber authorized their provisional release pending trial. The pretrial judge held hearings with the parties on 19 February 2016 and 23 May 2016. The pretrial judge and the Trial Chamber have issued 16 decisions or orders, including on a pretrial work plan, scheduling matters, preliminary motions,

provisional release and the appointment of an independent medical expert. As at 30 June 2016, pretrial proceedings are ongoing.

D. Principal activities of the Appeals Chamber

23. During the reporting period, the Appeals Chamber addressed a number of applications for review of judgment and ancillary matters. On 7 July 2015, the Appeals Chamber denied Milan Lukić's request for review. In relation to this matter, the Appeals Chamber also issued two other decisions, including a decision on 13 November 2015 dismissing Mr. Lukić's request to appeal the decision of 7 July 2015. On 8 July 2015, the Appeals Chamber denied Sreten Lukić's request for review. On 13 July 2015, the Appeals Chamber denied Eliézer Niyitegeka's request for review without prejudice, but granted his request for the assignment of counsel to assist him with a revised request for review. An additional seven decisions or orders relating to protective measures, the assignment of counsel and the reclassification of filings were issued in relation to this case. On 16 November 2015, the Appeals Chamber denied Ferdinand Nahimana's request for review. The Appeals Chamber also issued a confidential decision authorizing the assignment of counsel in relation to another potential request for review and a related order.

24. In addition, the Appeals Chamber considered a number of issues in respect of applications for provisional release from detention. On 22 October 2015, the Appeals Chamber dismissed the Prosecution's appeal of a decision taken by the President in connection with the provisional release of Dragan Nikolić. On 28 January 2016, the Appeals Chamber denied Zdravko Tolimir's request for provisional release. A public, redacted version of this decision and two orders relating to this matter were also issued. On 11 March 2016, the Appeals Chamber granted Radivoje Miletić's request for provisional release. Two other orders relating to this matter were also issued.

25. In respect of other matters, on 8 December 2015, the Appeals Chamber dismissed an appeal by Jean de Dieu Kamuhanda against a decision taken by a single judge on an issue of jurisdiction. In addition, on 17 February 2016, the Appeals Chamber dismissed an appeal by Naser Orić against a decision taken by a single judge in relation to the principle of *non bis in idem*.

26. The Appeals Chamber is seized of appeal proceedings in the case of *Radovan Karadžić* in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 24 March 2016. The Appeals Chamber has granted requests for extensions of time for the filing of notices of appeal in this case, which are due by 22 July 2016. The Appeals Chamber has issued 15 decisions or orders in relation to this case during the pre-appeal proceedings, which are ongoing.

27. The Appeals Chamber is also seized of an appeal by the Prosecution against the acquittal of Vojislav Šešelj by a Trial Chamber of the International Tribunal for the Former Yugoslavia. The Prosecution filed its notice of appeal on 2 May 2016 and briefing is ongoing.

28. As at the conclusion of the reporting period, the Appeals Chamber also remained seized of an appeal filed by Jean Uwinkindi against the Trial Chamber's decision of 22 October 2015 denying his request for the revocation of the referral of his case to Rwanda. As at 30 June 2016, the Appeals Chamber and the pre-appeal

judge have issued eight decisions or orders in relation to this case, in which the briefing is ongoing.

IV. Activities of the Office of the Prosecutor

A. Introduction

29. The reporting period marked the beginning of an intense period of trial and appeal work for the Office of the Prosecutor. Pretrial proceedings in the *Stanišić and Simatović* case have now commenced for the retrial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia on 15 December 2015. The Office also commenced work on appeal proceedings in two cases (*Karadžić* and *Šešelji*) following the issuance of trial judgments by the Tribunal on 24 March and 31 March 2016, respectively. In addition to this trial and appeal activity in The Hague, the Office has been undertaking a high volume of case-related litigation at both branches. Finally, the Office continued its significant efforts to locate and arrest the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

30. The reporting period also marked the beginning of a significant new effort to further streamline operations and reduce costs by effectively integrating the staff and resources of the Office with those of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia. Since 1 March 2016, the two Offices have been implementing a "one office" approach that will allow staff and resources to be flexibly deployed across both institutions in "double-hatting" arrangements as and when needed based on operational requirements, in accordance with the Security Council's directions set forth in resolution 1966 (2010). Flexible management of all Prosecution staff and resources during the remaining period of co-existence of the Mechanism and the International Tribunal for the Former Yugoslavia is expected to yield some overall cost savings (for example, by reducing recruitment exercises), while also significantly improving the Offices' capacity to respond to any new developments within existing resources. The "one office" approach also provides an important tool to help ameliorate the impact of the ongoing staff attrition.

31. During the reporting period, the Office of the Prosecutor focused on three priorities: (a) locating and arresting fugitives; (b) the expeditious completion of trials and appeals; and (c) assistance to national jurisdictions. The Office continues to rely on the full cooperation of States to successfully carry out its mandate in these areas.

B. Fugitives

32. During the reporting period, the Office of the Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Pheneas Munyarugarama, Aloys Ndimbat, Ryandikayo and Charles Sikubwabo.

33. The Office of the Prosecutor is at present focusing on reviewing existing leads to determine whether they should be further pursued or closed and has begun identifying potential new leads to be followed up in the coming months. The Office continued its public communication efforts concerning the search for the fugitives. The Office also conducted an overall review of its tracking efforts to date to ensure that appropriate priorities are in place and that tracking operations are directed to achieving those priorities. As part of that review, the Prosecutor redeployed resources, from within existing capacity, to further support tracking efforts. State cooperation will be essential to successfully track and arrest the remaining fugitives. In particular, the Office of the Prosecutor must rely on the cooperation of State authorities to conduct arrest operations.

C. Trials and appeals

34. During the reporting period, the Office of the Prosecutor commenced its first trial and appeals proceedings arising out of cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the Mechanism's statute and the transitional arrangements. At The Hague, the Office is conducting one trial (*Stanišić and Simatović*) and two appeals (*Karadžić and Sešelj*). It is expected that the Office will also conduct any appeal proceedings in the *Mladić* case following the anticipated rendering of the trial judgment in November 2017.

35. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia partially granted the appeal of the Office of the Prosecutor of that Tribunal in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgment and ordered the case to be retried on all counts. Pursuant to the Mechanism's statute and the transitional arrangements, this retrial falls within the jurisdiction of the Mechanism. The Office of the Prosecutor has commenced intensive pretrial preparations in this case. The Pre-Trial Chamber has not yet made a decision on the opening date for the retrial, but one is expected soon.

36. On 24 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. The defence has indicated that it will file an appeal. The Office of the Prosecutor is currently reviewing the trial judgment to determine whether there are grounds for appeal. At the request of the defence, the pre-appeal judge of the Mechanism granted an extension of 90 days for the filing of notices of appeal in this case, which are thus now due no later than 22 July 2016.

37. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia, by a majority, acquitted Vojislav Šešelj on all counts of the indictment against him. The Office of the Prosecutor announced its intention to appeal the judgment in a public statement on 6 April 2016 and filed its notice of appeal on 2 May 2016.

38. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 28 of the Mechanism's statute. The Office's access to documents, archives and witnesses is critical for ongoing Mechanism trial and appeal proceedings. During the reporting period, cooperation by Serbia, Croatia, Bosnia and Herzegovina and Rwanda with the

Office of the Prosecutor remained satisfactory. The Office fully expects that its requests for assistance will be promptly and adequately processed.

39. The Office of the Prosecutor is committed to exploring all reasonable measures within its control to expedite the completion of these trial and appeals proceedings, while recognizing that ultimately it is for the respective Chambers to manage the proceedings and set appropriate deadlines for the parties and themselves. The Office looks forward to receiving projections from the Chambers as to the expected timelines for the ongoing cases.

D. National war crimes prosecutions

1. Monitoring of referred cases

40. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007 and have not yet been completed. The cases against Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were referred to Rwanda in 2012 and 2013, and proceedings are ongoing.

41. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2007 on four counts of genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The investigation by the French authorities in the *Munyeshyaka* case has not resulted in these charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the *juge d'instruction* on 2 October 2015 confirmed the *non-lieu* dismissal of the case. Civil parties have appealed the ruling and a decision on the appeal is expected in the near future.

42. Laurent Bucyibaruta, the *préfet* of Gikongoro *préfecture*, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The investigation by the French authorities remains under way. On the basis of available information, it is understood that the investigation is expected to be completed in the near future.

43. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts of genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012 and the trial commenced on 14 May 2012. On 30 December 2015, the High Court issued its trial judgment, convicting Mr. Uwinkindi and sentencing him to life imprisonment. The defence will now have the opportunity to appeal that judgment.

44. Bernard Munyagishari, a local leader in the *Mouvement révolutionnaire national pour le développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts of conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. His case remains in the pretrial phase. A number of recent delays have been

attributable to ongoing disputes and litigation regarding the assigned defence counsel.

45. Ladislav Ntaganzwa, the *bourgmestre* of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him on five counts of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016.

2. Assistance to national jurisdictions

46. With the closure of the International Criminal Tribunal for Rwanda and the near completion of the mandate of the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. In the affected countries, effective prosecution of the crimes committed is of fundamental importance for building and sustaining the rule of law, establishing the truth concerning what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects present in their territory for crimes committed in Rwanda and the former Yugoslavia. National justice is now essential to achieve greater justice for the victims of horrific atrocities.

47. The Office of the Prosecutor places a high priority on monitoring, supporting and advising national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office possesses invaluable evidence and expertise that can greatly benefit national justice efforts. The former Yugoslavia-related evidence collection comprises more than nine million pages of documents and thousands of hours of audio and video records, most of which were not introduced as evidence in any proceeding of the International Tribunal for the Former Yugoslavia and thus are only available from the Office of the Prosecutor. The Rwanda-related evidence collection comprises more than one million pages of documents.

48. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

E. Other residual functions

49. During the reporting period, the Office of the Prosecutor continued to perform its responsibilities in respect of other residual functions.

50. As previously reported, the volume of non-trial and appeal litigation in the Mechanism continues to be higher than previously expected. One noticeable trend has been the many attempts by convicted persons to obtain review and ultimately revocation of their convictions entered by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Office must carefully monitor and respond to such motions in order to ensure the integrity of the convictions previously obtained.

51. The Office of the Prosecutor also continued to make submissions when invited in relation to the enforcement of sentences of persons convicted by the International

Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, particularly on requests by convicted persons for early release.

52. During the reporting period, the Office of the Prosecutor completed the process of assuming responsibility for all active records and the evidence collection of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda. In the coming months, the files received will be processed and relevant policies will be applied.

V. Activities of the Registry

53. The Registry provided administrative, legal, policy and diplomatic support to Mechanism operations.

A. Administration, staffing and facilities

54. During the reporting period, the General Assembly, by its resolution 70/243, approved the Mechanism's budget presented by the Registrar. In that resolution, the Assembly decided to appropriate to the Special Account for the Mechanism a total amount of US\$ 137,404,200 gross (US\$ 126,945,300 net) for the biennium 2016-2017.

55. Over the past year, the Mechanism has continued with the development and establishment of its own self-standing administration, with a focus on ensuring efficiency, accountability and consistency. This process is in step with the downsizing of the Tribunals, significant support being provided by "double-hatting" International Tribunal for the Former Yugoslavia administrative staff.

56. Following the closure of the International Criminal Tribunal for Rwanda at the end of 2015, the Arusha branch of the Mechanism assumed responsibility for the general services and security functions that used to be provided by the that Tribunal. Consistent with previous transfers of functions from the Tribunals, this transition occurred seamlessly, without any gap in the provision of services. The Arusha branch will continue to provide these services to the International Criminal Tribunal for Rwanda Liquidation Team for the duration of its existence.

57. The Arusha branch was co-located with the International Criminal Tribunal for Rwanda Liquidation Team over the latter half of the reporting period. In the second half of 2016, the Arusha branch is expected to assume occupancy of its new premises, which, at the close of the reporting period, were in the late stages of construction and being prepared for occupancy. Construction of the new premises was recently rated satisfactory in an audit report of the Office of Internal Oversight Services (OIOS). The project continues to remain within budget and to apply lessons learned and best practices from other United Nations capital projects. The Mechanism submits annual progress reports to the General Assembly on the construction project and posts regular updates on the progress of construction on the Mechanism's website.¹ The Mechanism is deeply grateful for the sustained cooperation of the Government of the United Republic of Tanzania and for the

¹ www.unmict.org/en/about/construction-arusha-facility.

technical advice of the United Nations Secretariat, particularly the Office of Central Support Services and the Office of Legal Affairs.

58. The Hague branch of the Mechanism is co-located with the International Tribunal for the Former Yugoslavia and will continue to be so co-located for the remaining period in which their mandates overlap. The Mechanism sees benefit in remaining at its current premises after the closure of the International Tribunal for the Former Yugoslavia. Discussions with the host State authorities and the owners of the premises to that end are ongoing.

59. As at 30 June 2016, the Mechanism has a total of 331 staff (on posts and in general temporary assistance positions) on board: 156 at the Arusha branch, including the Kigali office, and 175 at the Hague branch. The Mechanism's staff comprises nationals of 63 States. Of the staff at the Professional level and above, 59 per cent are female and 41 per cent male. Approximately 87 per cent of those recruited were current or former staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. Of the Mechanism's 177 continuing posts, 6 (3 per cent) are currently vacant. Recruitment for these posts is ongoing.

B. Support for judicial activities

60. The Registry continued to support judicial activities in both branches by preparing and managing court hearings, including the initial appearance and pretrial hearings in the *Stanišić and Simatović* retrial, and providing support to the *Karadžić* and *Šešelj* appeal proceedings. In early 2016, the Registry also facilitated the successful transfer of an International Criminal Tribunal for Rwanda indictee, Ladislas Ntaganzwa, from the Democratic Republic of the Congo for trial proceedings in Rwanda.

61. The support provided by the Registry included the processing of judicial filings (over 2,330 filings consisting of 20,300 pages in both branches during the reporting period) and the assignment and remuneration of defence teams. Additionally, the Language Support Services provided translations of judgments and other documents into Bosnian/Croatian/Serbian, English, French and Kinyarwanda, as well as other languages, as required. The Kinyarwanda Language Unit was created at the Arusha branch in January 2016, following the closure of the International Criminal Tribunal for Rwanda, to ensure and enhance the Mechanism's capacities in this regard.

62. During the reporting period, the Registry adopted policies governing the remuneration of defence counsel in pre-trial, appeal, and contempt and false testimony proceedings, as well as a policy for the remuneration of persons assisting indigent self-represented accused persons.

63. The Registry continued to support all sections of the Mechanism in the ongoing expansion of rosters of qualified potential staff, in order to ensure that the Mechanism can scale up rapidly in the event of sudden judicial activity, for instance following the arrest of a fugitive.

64. The Registry also expanded the list of qualified counsel who can be assigned to suspects or accused persons under rule 43 (B) of the Rules of Procedure and Evidence of the Mechanism, as well as the roster of duty counsel under rule 43 (C)

who are available to be assigned to an accused person for the purposes of an initial appearance. The Registry also facilitated the engagement of *pro bono* counsel for convicted persons.

C. Support for other mandated activities

1. Witness support and protection

65. The Mechanism is responsible for witness support and protection in relation to thousands of witnesses who have testified in cases completed by the two Tribunals.

66. The Witness Support and Protection Unit provides essential protection and support services. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Unit provides security to witnesses by undertaking threat assessments, coordinating responses to security requirements and safeguarding confidential witness information. In addition, the Arusha branch of the Unit continues to provide support services to witnesses in Kigali, including specialized medical and psychosocial care for witnesses who were victims of sexual or gender-based violence during the Rwandan genocide. The Hague branch supported the International Tribunal for the Former Yugoslavia during the finalization of a pilot study on the long-term impact of giving testimony at the Tribunal. The Arusha branch continues to explore opportunities to extend the project to include witnesses who appeared before the International Criminal Tribunal for Rwanda.

67. At both branches, the Unit continued to contact witnesses in response to requests from national jurisdictions seeking rescission, variation or augmentation of protective measures pursuant to rule 86 of the Rules of Procedure and Evidence of the Mechanism.

68. Finally, as part of the commitment to continue strengthening the maintenance of witness related records received from the Tribunals, the Unit established a common information technology platform for the respective witness databases at each branch. The common information technology platform became fully accessible to both branches in November 2015, the aim being to maximize operational efficiencies across the two branches.

2. Archives and records management

69. During the reporting period, the Mechanism's Archives and Records Section continued to work with the Tribunals on the preparation of their records and archives for transfer to the Mechanism. The Section provided training, advice and practical assistance to staff and facilitated both the transfer of active records to Mechanism offices and the transfer of inactive records to the Section for storage. It is estimated that the archives of the two Tribunals will collectively amount to approximately 10,000 linear metres of physical records and approximately three petabytes of digital records.

70. To date, the Section has received over 96 per cent of the International Criminal Tribunal for Rwanda's and somewhat over 30 per cent of the International Tribunal for the Former Yugoslavia's inactive physical records that are expected to be transferred to the Section. The Section has also completed the transfer of all the digital records of the International Criminal Tribunal for Rwanda, amounting to

1.2 petabytes, and has transferred approximately 80 per cent, 1.48 petabytes, of the digital records of the International Tribunal for the Former Yugoslavia.

71. During the reporting period, the procurement of a digital preservation system, which will ensure the long-term preservation of the Tribunals' digital archives, was completed and progress was made on the development of a unified system for managing the judicial records of both Tribunals and the Mechanism. The Section continued to develop the Mechanism's records and archives governance structure.

72. During the reporting period, the Registry developed a new public interface for access to the judicial records of the Mechanism and the International Criminal Tribunal for Rwanda, making over 27,000 public judicial records accessible via the Mechanism's website. The Section also preserved the over 2,000 audiovisual recordings of the *Karadžić* trial, enabling the International Tribunal for the Former Yugoslavia to make over 1,300 public recordings available online, and the Registry launched the first online exhibition of archives of both Tribunals.

73. In an OIOS audit conducted during the reporting period, the Mechanism's management of the archives and records was rated satisfactory.

74. Finally, the Mechanism maintained its library in Arusha as one of the premier international law research resources in East Africa. The library issued the latest edition of the *International Criminal Tribunal for Rwanda Special Bibliography* in November 2015 and is currently preparing the 2016 edition, which will include resources relating to both Tribunals.

3. Enforcement of sentences

75. During the reporting period, the Hague branch transferred four convicted persons to enforcement States following orders issued by the President. At the end of the reporting period, the Arusha branch was enforcing 28 sentences in two States and the Hague branch was enforcing 18 sentences in nine States. Currently, 10 convicted persons at the United Nations Detention Facility in Arusha and two convicted persons at the United Nations Detention Unit in The Hague are awaiting transfer to enforcement States. On 1 October 2015, the Mechanism assumed responsibility for the management and operations of the United Nations Detention Facility in Arusha. There has been no disruption in services provided to the detainees during or after the transition.

76. Following the transfer to the Government of Senegal in December 2015 of eight prison cells in Sébikotane Prison, refurbished by the International Criminal Tribunal for Rwanda, the Mechanism undertook and completed the procurement of furniture and other necessary assets to furnish the cells for prospective use in the enforcement of sentences under the supervision of the Mechanism.

77. The Mechanism continued both to seek the cooperation of existing enforcement States in enforcing sentences of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism, and to secure additional agreements to increase its enforcement capacity for both branches. On 13 May 2016, the Mechanism concluded an agreement with Mali on the enforcement of sentences of the International Criminal Tribunal for Rwanda or the Mechanism. This agreement reflects best practices in the enforcement of international sentences. Similar agreements are under negotiation with other

enforcement States. The Mechanism is grateful to Member States that are enforcing sentences and to those that are considering enforcing sentences in future.

78. Throughout the reporting period, the Mechanism continued to rely on the Department of Safety and Security and the United Nations Multidimensional Integrated Stabilization Mission in Mali for advice and reports on the security situation in Mali, where 16 convicted persons are serving their sentences under the supervision of the Mechanism.

79. The Mechanism also enforced an outstanding International Tribunal for the Former Yugoslavia contempt sentence during the reporting period. Florence Hartmann, convicted of contempt on 14 September 2009, was arrested on 24 March 2016 and was granted early release after having served two-thirds of her seven-day sentence.

4. Assistance to national jurisdictions

80. The Registry facilitates requests by national authorities, or parties to national proceedings, for assistance in connection with domestic proceedings related to the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Registry processed 120 requests for assistance, including requests to question detained persons and protected witnesses, to rescind, vary or augment protective measures for witnesses and to retrieve and transmit confidential and certified material to national authorities.

5. Upkeep and relocation of acquitted and released persons

81. The Mechanism has continued the efforts undertaken by the International Criminal Tribunal for Rwanda to facilitate the relocation of persons acquitted by, or who have completed the sentences imposed by, that Tribunal and is exploring fresh approaches to address the pressing situation pertaining to these individuals. In June 2016, a European State granted a family reunification visa to one of the acquitted persons, reducing to 13 the number of acquitted and released individuals currently remaining in Arusha. In addition, a revised and more efficient approach in relation to the upkeep of the acquitted and released persons in Arusha pending their relocation is being implemented from July 2016. The recent conclusion of a new agreement with Mali on the enforcement of sentences contains specific provision for the situation of persons released following the completion of their sentences in that State, and the Mechanism is engaged in negotiations towards the same end with other States. The Mechanism is grateful to the States concerned and remains appreciative of the ongoing support of the Security Council and the international community in this regard.

6. Monitoring of referred cases

82. Pursuant to article 6 (5) of its statute, during the reporting period the Mechanism monitored three cases referred to Rwanda through monitors from the Kenyan Section of the International Commission of Jurists. The Mechanism continues to work on establishing a similar monitoring arrangement for the two cases referred to France, which were monitored by interim monitors from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism during the reporting period. Public monitoring reports are posted on the Mechanism's website.

7. External relations and information-sharing

83. The Mechanism's website continued to be an essential channel of communication for external audiences, gathering more than 300,000 page views over the reporting period. The webpage highlighting progress in the construction of the Arusha facility was converted into a microwebsite (a special feature website). As part of a joint project with the Mechanism's Archives and Records Section, another microsite was designed to host the first online exhibition showcasing a selection of the Tribunals' archive materials. The Mechanism's activities can also be followed on Facebook, Twitter, LinkedIn, Flickr and YouTube.

84. In addition, over the reporting period, the Mechanism conducted presentations for various groups of visitors. A dedicated spokesperson was also designated from the existing staff resources at the Hague branch.

85. Finally, the first diplomatic briefing by the Mechanism's principals was organized in The Hague on 24 May 2016 and was attended by approximately 100 diplomats from The Hague and Brussels.

VI. Conclusion

86. The Mechanism's progress in completing its judicial and other work swiftly, while maintaining the highest of standards, underscores its commitment to the mandate entrusted to it by the Security Council and to serving as an efficient and effective model for international criminal justice institutions. During the reporting period, all relevant remaining aspects of the work of the International Criminal Tribunal for Rwanda were transferred smoothly to the Mechanism following the Tribunal's closure in December 2015. As the Mechanism commences its new period of operations, moving into a phase of intense judicial activity even as it prepares to assume responsibility for the relevant remaining aspects of the work of the International Tribunal for the Former Yugoslavia upon the closure of that Tribunal, it will continue to focus on carrying out its mandate in a timely, lean and efficient manner.



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**Report of the International Tribunal for the Prosecution
of Persons Responsible for Serious Violations of
International Humanitarian Law Committed in the
Territory of the Former Yugoslavia since 1991**

**Security Council
Seventy-first year**

**Report of the International Tribunal for the
Former Yugoslavia**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex), which states that:

The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

* A/71/150.



Letter of transmittal

Letter dated 1 August 2016 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, dated 1 August 2016, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the Tribunal.

(Signed) Carmel Agius
President

**Twenty-third annual report of the International Tribunal
for the Prosecution of Persons Responsible for Serious
Violations of International Humanitarian Law Committed
in the Territory of the Former Yugoslavia since 1991**

Summary

The twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 covers the period from 1 August 2015 to 31 July 2016.

The Tribunal continued to focus on the completion of pending trials and appeals, making significant progress during the reporting period. Two appeal judgments and two trial judgments were rendered. In addition, the judges of the Appeals Chamber delivered the judgments in the final appeal case from the International Criminal Tribunal for Rwanda. A further trial case was terminated following the death of the accused. Now, only two cases — one trial and one appeal — remain. All 161 individuals indicted for serious violations of international humanitarian law are accounted for. At the close of the reporting period, six persons were in appeal proceedings and one person was on trial. One pending contempt case remains, with arrest warrants yet to be executed by Serbia. The present report details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's commitment to completing its proceedings expeditiously and in accordance with due process.

During the reporting period, the Tribunal saw a change in leadership. Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) continued to serve as President and Vice-President, respectively, until 16 November 2015. On 17 November 2015, Judge Agius assumed the presidency and Judge Liu Daqun (China) became Vice-President. The respective Presidents of the Tribunal continued to undertake and promote efforts to monitor progress and prevent delays in the cases by bolstering staffing resources in cases needing reinforcement and by attempting to counter staff attrition.

With the valuable assistance of the Office of Legal Affairs of the Secretariat and the Security Council Informal Working Group on International Tribunals, the Tribunal continued the smooth transition of its functions to the International Residual Mechanism for Criminal Tribunals.

The Office of the Prosecutor remained focused on the expeditious completion of its trial and appeal cases. It continued to rely on the cooperation of States in fulfilling its mandate and to support domestic war crimes prosecutions in the former Yugoslavia, but expressed particular concerns in relation to Serbia's failure to execute arrest warrants in the pending contempt case.

Under the authority of the President, the Registry continued to provide valuable administrative and judicial support to the Tribunal, coordinating a wide range of legal, policy and operational matters. The Registry also coordinated practical arrangements necessary for the ongoing process of downsizing the Tribunal's operations and transferring responsibilities to the Mechanism.

I. Introduction

1. The twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2015 to 31 July 2016.

2. The Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003), making significant progress during the reporting period. Judgments were delivered in the two trial cases of *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Vojislav Šešelj* and in the two appeal cases of *Prosecutor v. Jovica Stanišić and Franko Simatović* and *Prosecutor v. Mičo Stanišić and Stojan Župljanin*. In addition, in December 2015 the Appeals Chamber of the International Criminal Tribunal for Rwanda, on which judges of the International Tribunal for the Former Yugoslavia also sit, delivered its judgement in the case of *Prosecutor v. Nyiramasuhuko et al. ("Butare")*. The trial case of *Prosecutor v. Goran Hadžić* was also terminated during the reporting period following the death of the accused. All 161 individuals indicted for serious violations of international humanitarian law are accounted for. At the close of the reporting period only one appeal, *Prosecutor v. Prlić et al.*, involving six convicted persons, and one trial, *Prosecutor v. Ratko Mladić*, involving one accused person, are ongoing. However, in a pending contempt case, *Prosecutor v. Jajić et al.*, there are currently three indictees whose arrest warrants are yet to be executed.

3. For the first part of the reporting period, Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) continued to serve as President and Vice-President, respectively. At an extraordinary plenary session of judges held on 21 October 2015, Judge Agius and Judge Liu Daqun (China) were elected as President and Vice-President of the Tribunal, respectively; they took office on 17 November 2015. Throughout the reporting period, Serge Brammertz (Belgium) continued to serve as Prosecutor and John Hocking (Australia) as Registrar.

4. Each organ of the Tribunal continued to undertake measures to improve efficiency and to ensure completion of the Tribunal's mandate by the end of 2017. Judges and staff worked extremely hard to deliver judgments on time, with the Trial and Appeals Scheduling Working Group (chaired by the Vice-President) closely monitoring progress in all cases. In addition, the Chambers continued to identify and adopt measures to maximize the efficiency of ongoing judicial proceedings and avoid slippage, while preserving the highest levels of procedural fairness. The Office of the President and the Registrar worked closely to address, inter alia, the escalating challenges of staff attrition and staff morale, while the Office of the Prosecutor continued to downsize posts and implemented a resource-sharing policy with the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

II. Activities involving the entire Tribunal

A. President

5. Both President Meron and President Agius oversaw the Tribunal's work during their respective terms as President, focusing on the judicial responsibilities of the office and on initiatives aimed at the timely completion of trials and appeals, and working closely with the Tribunal's Registrar, judges and management. Each President also represented the Tribunal at international forums and met with representatives of various countries, as well as high-level officials from the United Nations. In addition, President Agius oversaw the development of proposals for legacy events in the Tribunal's final biennium, to ensure its lasting positive impact beyond the 2017 closure date. In line with this, President Agius announced soon after assuming the presidency that his priorities in the Tribunal's final biennium would be: first and foremost, to meet the 2017 deadline for the closure of the Tribunal; second, to ensure the efficiency of judicial proceedings without sacrificing their fairness and quality; and third, to consolidate the image of the Tribunal and the impact of its work.

1. Ensuring timely completion of the Tribunal's judicial work

6. During their respective terms, the Presidents and Vice-Presidents coordinated closely with judges and staff of the Tribunal to ensure that all trials and appeals anticipated to conclude during the reporting period were finished on time, and to reduce the risk of delays in ongoing trials and appeals. In particular, they actively monitored the progress of cases and took measures to prevent and address the impact of staff attrition, including assigning additional legal staff to teams requiring assistance as a result of the loss of highly experienced staff, offering promotions as an incentive to retain staff and exploring other possible solutions, such as an end-of-service grant. In addition, the Trial and Appeals Scheduling Working Group, chaired by the Vice-President, met regularly to monitor and report on trials and appeals, to ensure that cases were kept on track and to identify and prevent any possible causes of delay.

2. Relations with Governments and international organizations

7. During the reporting period and within their respective terms of office, Presidents Meron and Agius made presentations regarding the Tribunal's work to the principal organs of the United Nations and the Informal Working Group on International Tribunals. On 13 October 2015, President Meron addressed the General Assembly regarding the Tribunal's twenty-second annual report (A/70/226-S/2015/585). On 9 December 2015, President Agius addressed the Security Council to present the Tribunal's twenty-fourth completion strategy report (S/2015/874). On 8 June 2016, President Agius addressed the Security Council regarding the Tribunal's twenty-fifth completion strategy report (S/2016/454). In addition, during missions to New York, both Presidents met with representatives of member States and officials of the Office of Legal Affairs. President Agius also met with the Secretary-General in December 2015.

8. Various representatives of Governments and judiciaries visited the Tribunal during the reporting period and met with the respective Presidents, judges and other officials to learn about the Tribunal's work, achievements and challenges. President

Meron received visits from, among others, the ambassadors of Australia, Bangladesh and France, as well as the President of the Croatian Supreme Court, a judge of the Constitutional Court of the Republic of Korea and the legal counsellor of the French Embassy.

9. President Agius received visits from, among others, the ambassadors of Armenia, Croatia, Germany, Italy, the Russian Federation, Serbia and the United Kingdom of Great Britain and Northern Ireland, as well as the United Kingdom Minister of State and Prime Minister's Special Representative on Preventing Sexual Violence in Conflict, the Secretary-General of the Ministry of Foreign Affairs of the Netherlands, the Minister of Justice of Croatia and the Croatian Member of the Presidency of Bosnia and Herzegovina. Further, in May 2016, a delegation of judges, prosecutors and investigators from Montenegro conducted a two-day visit to the Tribunal. In addition to those visits, on 25 February 2016 President Agius held a briefing for the diplomatic community in The Hague on the work of the Tribunal and his plan for its final biennium, which was attended by over 90 diplomats.

10. On 21 September 2015, President Meron conducted an official mission to the European Union in Brussels to seek support for the Tribunal's outreach programme. On 26 February 2016, President Agius travelled on official mission to Strasbourg to attend a conference organized jointly by the European Court of Human Rights and the European Society of International Law. In addition, President Agius conducted a mission to Bosnia and Herzegovina to attend a commemoration ceremony at the Potočari Memorial Centre on 11 July 2016, which marked the twenty-first anniversary of the genocide in Srebrenica. President Agius delivered an address there emphasizing, *inter alia*, the Tribunal's role in recognizing the crimes committed in Srebrenica as genocide and the importance of fully acknowledging the past.

3. Judicial activity

11. The statute of the Tribunal, the Rules of Procedure and Evidence and the Practice Directions confer upon the President certain judicial functions. In carrying out such duties, President Meron and President Agius issued numerous orders assigning cases to Chambers. In addition, President Meron issued a decision on review of a funding decision of the Registrar and considered a request for early release and provisional release but dismissed it for lack of jurisdiction.

4. Transition to the International Residual Mechanism for Criminal Tribunals

12. The Hague branch of the International Residual Mechanism for Criminal Tribunals commenced operations on 1 July 2013. During their respective terms, both Presidents of the Tribunal have taken steps to ensure the continued smooth handover of functions to the Mechanism, including through regular meetings with the Registrar and meetings of the Tribunal's Coordination Council, Records and Archives Working Group and Liquidation Taskforce. In addition, President Agius maintains continuing communication and cooperation with the President of the Mechanism.

5. Legacy and closing events

13. As the Tribunal approaches the end of its life, the question of how best to ensure its lasting legacy, both in the region of the former Yugoslavia and more

broadly, has assumed an even greater significance. During the reporting period, a proposal for a series of Tribunal legacy and closing events was developed with the active involvement of the Office of the President and in consultation with representatives of the Registry, the Office of the Prosecutor and the Association of Defence Counsel.

B. Bureau

14. Pursuant to rule 23 of the Rules of Procedure and Evidence, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. During the reporting period, both President Meron and President Agius regularly consulted the Bureau on general policy matters of the Tribunal as well as specific legal, procedural and operational issues.

C. Coordination Council

15. Pursuant to rule 23 bis of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. The Council held several meetings during the reporting period to discuss, inter alia, the completion strategy, archiving, budgetary concerns, the transition of functions of the Tribunal to the Mechanism and the evaluation of the Tribunal undertaken by the Office of Internal Oversight Services (OIOS) detailed below.

D. Plenary sessions

16. During the reporting period, the judges of the Tribunal held three plenary sessions: an extraordinary session (at which President Agius and Vice-President Liu were elected) on 21 October 2015, and two regular plenary sessions on 28 January 2016 and 6 July 2016.

E. Rules Committee

17. For the first part of the reporting period, the judicial membership of the Rules Committee comprised then Vice-President Agius (Chair), President Meron and Judges Christoph Flügge, Alphons Orié and O-Gon Kwon. Following the change in presidency on 17 November 2015 and the departure of O-Gon Kwon from the Tribunal, the Rules Committee comprised Vice-President Liu (Chair), President Agius and Judges Christoph Flügge and Alphons Orié. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. There were no meetings of the Rules Committee during the reporting period.

F. Evaluation by the Office of Internal Oversight Services

18. By its resolution 2256 (2015), the Security Council requested OIOS to carry out an evaluation with respect to the methods and work of the Tribunal and to present its report by 1 June 2016. Officials of OIOS visited the Tribunal in March

2016 to conduct their assessment and the principals, judges and staff of the Tribunal granted their fullest cooperation. The OIOS report, which included the Tribunal's written response as an attachment, was submitted on 16 May 2016. Pursuant to resolution 2256 (2015), the Tribunal will report on implementation of any OIOS recommendations in its next semi-annual report to the Security Council, in November 2016.

III. Activities of the Chambers

A. Composition of the Chambers

19. Seven permanent judges from seven countries currently serve at the Tribunal: Carmel Agius (President, Malta), Liu Daqun (Vice-President, China), Christoph Flügge (Germany), Alphons Orie (Netherlands), Fausto Pocar (Italy), Theodor Meron (United States) and Bakone Justice Moloto (South Africa).

20. O-Gon Kwon (Republic of Korea), Jean-Claude Antonetti (France), Burton Hall (Bahamas), Howard Morrison (United Kingdom), Guy Delvoie (Belgium) and Koffi Kumelio A. Afande (Togo) also served as permanent judges during the reporting period but left the Tribunal at the conclusion of their respective mandates.

21. In addition, the following permanent judges of the International Criminal Tribunal for Rwanda served in the Appeals Chamber of the Tribunal during the reporting period but left the Tribunal at the conclusion of their mandates: Arlette Ramaroson (Madagascar), Khalida Rachid Khan (Pakistan), Bakhtiyar Tuzmukhamedov (Russian Federation) and Mandiaye Niang (Senegal).

22. During the reporting period, Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo) Flavia Lattanzi (Italy) and Melville Baird (Trinidad and Tobago) served as ad litem judges but left at the conclusion of their mandates.

23. At the beginning of the reporting period, three Trial Chambers were in operation. At the close of the reporting period, however, and following the departure of the judges assigned to the *Karadžić* case and the *Šešelj* case, only one Trial Chamber, composed of Judges Orie (presiding), Flügge and Moloto, remained.

24. At the close of the reporting period, the Appeals Chamber was composed of Judges Agius (presiding), Pocar, Liu and Meron, being an insufficient number of judges to enable the Appeals Chamber to deal with any future interlocutory appeals from the *Mladić* case. At the time of drafting of the present report, solutions were being explored to provide the Appeals Chamber with a fifth member for the purpose of such interlocutory appeals. This situation does not exist with respect to the *Prlić et al.* case, given the composition of the Appeals Chamber in that case (as outlined below).

B. Principal activities of the Chambers

1. Trial Chamber I

Mladić

25. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orić (presiding), Flügel and Moloto. The trial commenced on 16 May 2012. It is expected that the evidentiary phase of the case will be concluded in August of this year, after which the parties will submit their final briefs and make their final arguments. Thereafter, the Trial Chamber will be fully engaged in deliberations and drafting of the judgment. The projected date of delivery of the judgment remains November 2017. The judges and legal support team have taken a variety of measures to minimize delays in the preparation of the trial judgment, including involving additional staff resources in the drafting process. Although such resources have been assigned, highly qualified staff members are expected to continue to leave the Tribunal for more secure employment elsewhere. It will thus be an increasing challenge to maintain continuity of core staff, which is of utmost importance in a case of such size and complexity.

Jojić et al.

26. Petar Jojić, Jovo Ostojić and Vjerica Radeta are charged with four counts of contempt of court in relation to alleged witness intimidation in the *Šešelj* case. The proceedings in this case were confidential until 1 December 2015. Arrest warrants have been pending execution in Serbia since 19 January 2015. As a result, it is not possible to estimate the exact commencement and length of the case. If the arrest warrants are not executed soon, it may become necessary to urgently discuss a solution that would allow this case to be finalized before November 2017.

2. Trial Chamber II

Hadžić

27. Goran Hadžić, now deceased, was charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia and Serbia between 25 June 1991 and December 1993. The Trial Chamber was composed of Judges Delvoie (presiding), Hall and Mindua. The trial commenced on 16 October 2012 but was adjourned from 20 October 2014 onwards owing to Mr. Hadžić's grave health condition. On 26 October 2015, the Trial Chamber decided to stay the proceedings for a period of three months considering by majority that, inter alia, while Mr. Hadžić was still fit to stand trial, his health condition precluded his detention at the United Nations Detention Unit in The Hague. The appeal of this decision by the Office of the Prosecutor was granted in part by the Appeals Chamber on 4 March 2016. The Appeals Chamber invited the Trial Chamber to reassess Mr. Hadžić's fitness on the basis of the available and updated medical records. On 24 March 2016, the Trial Chamber issued a further decision in which it found, by majority, that Mr. Hadžić was unfit to stand trial and stayed the proceedings indefinitely. On 19 May 2016, the Office of the Prosecutor requested a formal termination of the proceedings in the

case and the Defence responded on 2 June 2016, agreeing that the case be terminated. The requests to terminate were denied by the Trial Chamber on 17 June 2016 and certification to appeal the decision was granted to both the Office of the Prosecutor and the Defence. However, on 12 July 2016, Mr. Hadžić died and the case was terminated on 22 July 2016.

3. Trial Chamber III

Karadžić

28. The Trial Chamber rendered the trial judgement in the case against Radovan Karadžić on 24 March 2016. The Trial Chamber found the accused guilty of genocide in Srebrenica, five counts of crimes against humanity and four counts of violations of the laws or customs of war. It found him not guilty of one count of genocide pertaining to seven municipalities in Bosnia and Herzegovina. The Chamber sentenced Radovan Karadžić to a single sentence of 40 years of imprisonment.

Šešelj

29. The Trial Chamber rendered the trial judgement in the case against Vojislav Šešelj on 31 March 2016. The Trial Chamber, by majority on eight out of nine counts, found the accused not guilty of the charges in the indictment and acquitted him of nine counts of crimes against humanity and violations of the laws or customs of war in relation to acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993.

4. Appeals Chamber

(a) *Interlocutory appeals*

30. The Appeals Chamber issued two decisions on interlocutory appeals. On 4 March 2016 in the *Hadžić* case, the Appeals Chamber granted in part the appeal of the Office of the Prosecutor of the Trial Chamber's decision of 26 October 2015. The second decision of the Appeals Chamber was issued confidentially and *ex parte* and therefore no details may be revealed.

(b) *Appeals on the merits*

31. The Appeals Chamber rendered two final judgments during the reporting period.

32. In the *Stanišić and Simatović* case, the appeal judgement was rendered on 15 December 2015. The Appeals Chamber, by majority, granted certain grounds of appeal lodged by the Office of the Prosecutor and ordered that Jovica Stanišić and Franko Simatović be retried on all counts of the indictment.

33. In the *Stanišić and Župljanin* case, the appeal judgement was rendered on 30 June 2016. Mičo Stanišić and Stojan Župljanin had been convicted by the Trial Chamber of crimes against humanity and war crimes committed in Bosnia and Herzegovina in 1992, and sentenced to 22 years' imprisonment each. The Appeals Chamber affirmed their convictions and sentences.

34. In addition to these two judgments, on 14 December 2015 the Appeals Chamber of the International Criminal Tribunal for Rwanda, on which judges of the

International Tribunal for the Former Yugoslavia also sit, delivered its judgement in the *Butare* case, being the final and largest-ever appeal case of the International Criminal Tribunal for Rwanda.

35. One Appeals Chamber case is outstanding, namely the *Prlić et al.* case. This is the most voluminous appellate case in the history of the Tribunal, with seven appellants (including the Office of the Prosecutor) and a combined total of over 500 grounds and sub-grounds of appeal. The six defendants were convicted by the Trial Chamber of crimes against humanity and war crimes committed in Bosnia and Herzegovina between 1992 and 1994. The Appeals Chamber in the *Prlić et al.* case is composed of Judges Agius (presiding), Pocar, Liu, Meron and Moloto. Briefing in the appeal proceedings was completed on 29 May 2015, and the projected time frame for delivery of the appeal judgement remains November 2017. Although additional staff resources have been assigned in order to ensure that this deadline can be met, highly qualified staff members are expected to continue to leave the Tribunal for more secure employment elsewhere. It will thus be an increasing challenge to retain core staff members who are familiar with the voluminous case records and appeal briefs and the working methods of the Tribunal. The judges and legal support team have taken a variety of measures to avoid delays in the preparation of the appeal judgement. These include the creation of a timeline and organization of a workplan designed to maximize the additional staff resources, as well as the provision of ad hoc assistance to the legal support team by legal officers assigned to the judges on the bench.

(c) *Other appeals*

36. A total of 34 pre-appeal decisions and orders were issued during the reporting period.¹

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

37. During the reporting period, the Office of the Prosecutor remained focused on expeditiously completing its final trial and appeal proceedings, while simultaneously managing its downsizing process. The Office continued to reallocate staff and resources flexibly to ensure that all court-ordered deadlines are met. The Office also continued to assist officials and personnel of the Mechanism in transferring functions in accordance with the transitional arrangements.

38. In the current reporting period, judgments were issued in two trials (*Karadžić and Šešelj*) and two appeals (*Stanišić and Simatović* and *Stanišić and Župljanin*).

39. On 24 March 2016, the Trial Chamber unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. On 31 March 2016, the Trial Chamber, by majority on eight out of nine counts, acquitted Vojislav Šešelj on all counts of the indictment. On 15 December 2015, the Appeals Chamber partially granted the Office of the Prosecutor's appeal in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgement and ordered a retrial. On 30 June 2016, the Appeals

¹ This figure includes orders and decisions filed as of 31 July 2016.

Chamber delivered its judgment in the *Stanišić and Župljanin* case, affirming the accused's convictions and sentences. Pursuant to the transitional arrangements, retrial proceedings in the *Stanišić and Simatović* case and appeal proceedings in the *Karadžić* and *Šešelj* cases are being conducted by the Mechanism.

40. The Tribunal has one final trial (*Mladić*) and one final appeal (*Prlić et al.*). In the *Mladić* case, it is anticipated that closing arguments by both parties will be presented in the fall of this year. The *Hadžić* case, which had been stayed since October 2014 owing to the accused's ill-health, was terminated on 22 July 2016 following the death of the accused. The Appeals Division continues to focus on expeditiously and effectively preparing for the appeal hearing in the *Prlić et al.* case, which is expected to be held in early 2017.

41. The Office of the Prosecutor continued to downsize posts on the basis of the completion of relevant phases of the trial and appeal proceedings. Delays in the completion of proceedings have not affected the Office's downsizing, as the Office has been able to absorb the additional requirements within existing resources and continue its downsizing on schedule. The Office is actively supporting measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. The Office continues to support training of its staff members and to assist staff in taking advantage of the services offered by the Career Transition Office. Related to this, the Office of the Prosecutor is facilitating networking and other opportunities to assist its staff members and to ensure recognition of the considerable transferable skills of Office staff members, which are highly relevant to other core components of the Organization's work.

42. The Office of the Prosecutor of the Tribunal significantly increased its resource-sharing with the Office of the Prosecutor of the Mechanism during the reporting period with the implementation of the "one office" approach to integrating the staff and resources of the two offices. Under this policy, all prosecution staff will now be available to "double-hat" so that they can be flexibly assigned to either Tribunal- or Mechanism-related work depending on operational requirements and their case-related knowledge.

B. Cooperation

43. The Office of the Prosecutor continued to rely on the full cooperation of States, as required under article 29 of the statute of the International Tribunal for the Former Yugoslavia, to fulfil its mandate.

44. The Office of the Prosecutor continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia during the reporting period.

45. However, the Office regrets that Serbia has turned away from the path of full cooperation with the Tribunal. As both President Agius and the Prosecutor reported to the Security Council, Serbia has failed to cooperate with the Tribunal and to execute the Tribunal's arrest warrants for three Serbian indictees. Serbia has been obligated to enforce these arrest warrants since January 2015. It has had the opportunity to fully participate in proceedings before the Trial Chamber and provide explanations for its inaction. However, after hearing from Serbia, the Trial Chamber referred Serbia's non-cooperation to then President Meron and ordered Serbia to

provide regular reports on its efforts to execute the arrest warrants. The Office of the Prosecutor calls upon Serbian authorities to promptly arrest the three indictees and surrender them to the Tribunal's custody.

46. Cooperation and support from States outside the former Yugoslavia and from international organizations remains integral to the successful completion of Tribunal cases. Continued assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including witness relocation. The Office of the Prosecutor again acknowledges the support it received during the reporting period from States Members of the United Nations and from international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the Council of Europe.

C. Transition from the International Tribunal for the Former Yugoslavia to national war crimes prosecutions

47. As the Tribunal nears the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia through ongoing dialogue with counterparts and efforts to build capacity in the national justice sectors. The effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental to building and sustaining the rule of law, as well as for truth-seeking and reconciliation. With the completion of the Tribunal's mandate approaching, accountability for these crimes now depends on national prosecution offices and judiciaries.

48. During the reporting period, the Office continued to assist national judicial authorities in the former Yugoslavia to more successfully handle their war crimes cases. The joint European Union/International Tribunal for the Former Yugoslavia Training Project for National Prosecutors and Young Professionals from the former Yugoslavia was a central component of the Office's efforts. The Office also provided information and evidence in respect of ongoing investigations and trials, while further enabling access to the Office's databases.

49. Overall, while the processing of war crimes cases in national judiciaries in the region continued during the reporting period, the picture remains mixed and current trends do not unambiguously point in a positive direction. The pace of national prosecutions is still not yet commensurate with the backlog of cases remaining to be completed. Sufficient progress has also not yet been made in investigating and prosecuting complex cases involving senior- and mid-level officials.

50. Regarding the category II cases (investigation files) transferred by the Office of the Prosecutor of the Tribunal to the Prosecutor's Office of Bosnia and Herzegovina, the Prosecutor's Office has taken prosecutorial decisions in all but one outstanding case. Indictments have been confirmed in those cases, and trial proceedings are under way. This important development demonstrates the value of the continued support to and engagement with national prosecutors on the part of the Office of the Prosecutor of the Tribunal. While recognizing the appropriate deployment of resources to the category II cases, it must also be noted that the Prosecutor's Office of Bosnia and Herzegovina continues to file significant numbers of indictments in less complex cases.

51. The Prosecutor's Office of Bosnia and Herzegovina has sought cooperation from Croatian authorities in processing a number of category II case files. In the course of transferring the relevant case files to Croatian judicial authorities, a number of challenges have arisen. Croatian authorities confirmed that one case from Bosnia and Herzegovina has been pending in the Ministry of Justice for more than one year without resolution as a result of Government of Croatia policy. The Office of the Prosecutor urges the Croatian authorities to promptly review their policy, as this political decision is hindering the urgently needed progress in regional cooperation and the processing of category II case files.

52. War crimes prosecutions in Serbia are at a crucial crossroads. The Government of Serbia adopted on 20 February 2016 the "National strategy for the prosecution of war crimes for the period 2016-2020". The strategy expresses the Government's commitment to accountability for war crimes, regardless of the nationality, ethnicity, religion or status of the perpetrator or victim. Yet, as previously mentioned, Serbia has failed to cooperate with the Tribunal by arresting three indictees for whom arrest warrants were issued in January 2015. There were a number of other concerning developments during the reporting period, including the failure of the Government of Serbia to secure the appointment of a new Chief War Crimes Prosecutor by the December 2015 deadline, the failure of the Serbian judiciary to enforce the sentence imposed by the State Court of Bosnia and Herzegovina in the *Djukić* case, and the continued glorification of war criminals in Serbia. It is now up to Serbia to demonstrate that it will fulfil its pledges to cooperate with the Tribunal, support accountability for war crimes and promote effective regional cooperation.

53. During the reporting period, the Office of the Prosecutor grew increasingly concerned that the positive trend in regional cooperation in war crimes cases is reversing. Political tensions between countries and nationalist pressures domestically, both related to the legacies of the conflicts, are not conducive to regional cooperation in war crimes cases. The increasingly difficult political environment has further highlighted and exacerbated known technical challenges in regional cooperation. The current challenges facing regional cooperation are not unique, nor are they insoluble. Regional cooperation has significantly advanced over the last decade through the dedicated efforts of judicial officials. Political will and support are now needed to make accountability a regional issue and advance solutions to current challenges.

D. Capacity-building and legacy

54. During the reporting period, the Office of the Prosecutor continued its efforts to transfer expertise and information to national authorities in order to build capacity for national war crimes prosecutions in the former Yugoslavia. It also shared the lessons learned and best practices developed from its work with national counterparts working across a range of criminal justice sectors in Africa, South America, Europe and the Middle East.

55. On 31 May 2016, the Office of the Prosecutor launched its book on the prosecution of conflict-related sexual violence crimes over the course of the Tribunal's mandate. This publication thoroughly documents and analyses the Office's work and the Tribunal's jurisprudence on these crimes. Prepared with a

capacity-building focus, the Office's book will be an important tool for practitioners. The Office is also in the process of developing training materials for teaching the key insights and messages from the book.

V. Activity of the Registry

56. During the reporting period, the Registry continued to provide legal, administrative, technical and logistical support to the judicial proceedings of the Tribunal while simultaneously focusing on preparations for further downsizing and closure of the Tribunal and the transfer of its records to the Mechanism.

57. With reduced staff, all sections of the Registry continued to merge functions and operational capacity to ensure efficiency and expeditiousness of operations. Registry staff demonstrated flexibility and readiness to accept broader responsibilities, without compromising on the quality of judicial and administrative support for some of the Tribunal's largest and most complex cases. Further, the Registry offered the entire spectrum of administrative services necessary for the smooth functioning of the Tribunal, provided assistance to national jurisdictions and managed the Tribunal's outreach programme.

58. At the same time, the Registry continued to provide services and overall administrative support to the Mechanism, assisted in the gradual process of establishing the Mechanism's own self-standing administration and contributed to the strengthening of the working relationship between the two branches of the Mechanism.

A. Office of the Registrar

59. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing the Registry, including supervising all Registry sections and representing the Tribunal in its relations with the host State and other Member States, international organizations and external stakeholders. The Office also assisted in representing the Tribunal in its relations with the various organs of the United Nations, including in submissions to the Management Evaluation Unit and the United Nations Dispute and Appeals Tribunals.

60. The Immediate Office of the Registrar continued to support the Registrar, working hand in hand with Mechanism staff, in managing operations of the Mechanism Registry both in Arusha and The Hague, with a special focus on supporting judicial proceedings before the Mechanism, finalizing its policies and operating procedures and assisting in recruitment exercises.

61. The Immediate Office of the Registrar provided legal and policy advice on a variety of human resources issues and continued to assist the Registrar and the Division of Administration with the implementation of downsizing procedures, including conduct of the comparative review exercise for the 2016-2017 biennium and implementation of its results.

B. Division of Judicial Support Services

62. The Division of Judicial Support Services consists of the Court Support Services Section, the Judicial Records Unit, the United Nations Detention Unit and the Conference and Language Services Section. The Court Support Services Section has four units: the Witness Support and Operations Unit and the Witness Protection Unit (collectively referred to as the Victims and Witnesses Section); the Courtroom Operations Unit; and the Office for Legal Aid and Defence.

63. During the reporting period, the Registry supported four cases in trial and three on appeal (of which three trials and two appeals were concluded during the reporting period), involving a total of 14 accused persons, and filed approximately 115 legal submissions relevant to the Tribunal's ongoing or concluded cases. The Registry also supported one contempt case at the pre-trial stage involving three accused persons.

1. Court Support Services Section and Judicial Records Unit

64. During the reporting period, the Victims and Witnesses Section provided operational and psycho-social assistance to 45 witnesses (and accompanying support persons) appearing before the Tribunal and continued to consult with witnesses on applications to vary their protective measures in other Court proceedings, which increased over the reporting period. Further, the Section completed the final report on its pilot study of the long-term impact of giving testimony at the Tribunal. The report findings, derived from 300 witness interviews, were presented in The Hague and throughout the region of the former Yugoslavia during June 2016. The Section also took active steps to address security-related concerns by witnesses, including in cases that have resulted in relocation. Finally, it continued working closely with the Mechanism to streamline its practices and strengthen the working relationship between the two branches of the Mechanism.

65. The Courtroom Operations Unit supported four trials and three appeals over the reporting period, including three judgment renderings. It also assisted two self-represented accused through its *Pro Se* Office.

66. Moreover, as of 31 July 2016, the Judicial Records Unit had processed 1,501 Tribunal filings (23,593 pages), 953 Mechanism filings (7,024 pages), 320 Tribunal transcripts in English and French (24,130 pages) and 10 Mechanism transcripts in English and French (170 pages). The Unit also facilitated the sharing and transfer of judicial records between the Tribunal and the Mechanism.

67. The Office for Legal Aid and Defence continued to administer the Tribunal's legal aid system, overseeing more than 100 defence team members. Of the 14 individuals in trial and appeal proceedings during the reporting period, 12 were found unable or partially unable to remunerate counsel and were thus granted legal aid. Approximately half of those cases were ranked at the highest complexity level. The Office also administered the appointment and remuneration of *amici curiae* and provided assistance on legal, policy and operational matters relating to the management of the Mechanism's legal aid system.

2. United Nations Detention Unit

68. The United Nations Detention Unit continued to support both the Tribunal and the Mechanism and was responsible for detaining 19 individuals in conditions exceeding the relevant international standards. It facilitated detainees' presence at court hearings, ensured the care and security of one contempt detainee and implemented six provisional release decisions and orders. The Detention Unit continued to support self-represented accused in the preparation of their defence cases. Detainees were provided with in-house medical care and specialist medical assistance. Further, the Detention Unit continued to tailor its regime and services to meet the specific needs of an ageing detainee population and facilitated medical examinations by court appointed medical experts. In May 2016, in line with the steady decrease in the detainee population, the Detention Unit decommissioned one of its two remaining wings, reducing the number of cells from 32 to 20.

3. Conference and Language Services Section

69. The Conference and Language Services Section provided interpretation, translation and court reporting services for the Tribunal, resulting in approximately 18,200 pages of translation, 710 conference interpreter days and 14,000 pages of transcripts over the year. Notably, the Section delivered the translation of the lengthy Appeal judgment in the case of *Prosecutor v. Popović et al.*, and continued providing support to the Mechanism under the double-hatting arrangement. Careful scrutiny of translation requests to avoid duplication resulted in savings of approximately \$235,000 over the reporting period.

C. Transfer of records

70. The Registrar established a high-level Records and Archives Working Group to coordinate the transfer of Tribunal records and archives to the Mechanism and ensure that it is done by the closure of the Tribunal. The Group meets on a monthly basis and has completed an overall plan and comprehensive risk assessment for the project. Further, the Mechanism Archives and Records Section continued to support Tribunal offices in preparing their records for transfer to the Mechanism by providing briefings for managers and training for staff. The Section also worked with offices to set individual periodic targets for disposition, which will be regularly monitored by the Records and Archives Working Group. To date, the Tribunal has transferred over 30 per cent of the estimated total volume of physical records that are expected to be transferred to the Mechanism. The Tribunal also transferred 1.48 petabytes, approximately 80 per cent, of the Tribunal's digital records during the reporting period.

D. Communications Service

71. The Communications Service managed access to the Tribunal during the delivery of three judgments, including that of the *Karadžić* case, which was attended by approximately 500 people, including representatives of the diplomatic community, journalists, academics and an unprecedented number of victims' groups.

72. The Communications Service assisted in the organization of President Agius's first briefing to the diplomatic community in The Hague and coordinated

educational visits to the Tribunal and the Mechanism for more than 250 groups, welcoming over 6,000 visitors.

73. The Tribunal's website recorded more than 2.2 million page views. The website also underwent a complete design overhaul and was migrated to a Drupal unified content management framework to facilitate its future evolution into a legacy website. Additionally, an information page with an interactive timeline and an innovative tool allowing access to case information and documents were created and added to the site in advance of the *Karadžić* trial judgment. For the first time, the entirety of the video recordings of an international criminal trial is available online.

74. The Communications Service continued working with local authorities and international partners to establish information centres in the former Yugoslavia. Efforts are under way to finalize agreements with the City of Sarajevo and the Memorial Centre Srebrenica-Potočari and to explore the possibility of establishing information centres in other countries of the region.

75. The outreach programme extended its efforts to inform people in the former Yugoslavia about the Tribunal, reaching more than 2,000 students and teachers through 55 high school and university lectures and presentations. The Tribunal's field offices in Serbia and Bosnia and Herzegovina organized 20 events reaching more than 1,000 individuals. The fifth and sixth in the series of the outreach programme's documentaries about the work of the Tribunal (a revised version of "Crimes before the ICTY: Višegrad" and "Dubrovnik and crimes against cultural heritage") were completed and screened in Bosnia and Herzegovina, Croatia and Serbia. During the reporting period, 10 television stations in the former Yugoslavia, as well as UNTV, expressed interest in screening both documentaries. In addition, to mark the fifteenth anniversary of the outreach programme, the Tribunal completed and published a book providing a comprehensive overview of its activities and development over the years. The publication, "15 years of outreach at the ICTY", will be launched in the second half of 2016.

76. Further, the European Union generously confirmed its support for the outreach programme by pledging funds that will ensure the continuation of the programme until the Tribunal's closure. The Tribunal stresses the importance of General Assembly resolution 65/253, in which the Assembly encouraged the Secretary-General to continue to explore measures to raise voluntary funds for outreach activities and called upon States and other donors to offer their support.

E. Administrative Support Service Division

77. By resolution 70/242, the General Assembly approved the Tribunal's proposed programme budget and appropriated a revised amount of \$95,747,100 gross (\$85,024,600 net) for the 2016-2017 biennium. This amount represents a 52 per cent decrease as compared to the revised appropriation for the biennium 2014-2015.

78. During the 2016-2017 biennium, extrabudgetary resources are estimated at \$1,000,000, to be used for a variety of Tribunal activities. During the reporting period, the Tribunal administered several extrabudgetary initiatives, including outreach activities in the former Yugoslavia and training programmes for young prosecutors.

79. The Division of Administration made considerable progress towards the implementation of the Tribunal's administrative liquidation plan, continuing with the transfer/disposal of assets, consolidating all Hague-based operations into a single premises and further downsizing the two remaining field offices.

80. Also as part of the overall liquidation plan, the Division of Administration remained actively engaged in staff downsizing efforts, the plan for which, as in previous years, was formulated in full consultation with operational managers and staff representatives. OIOS noted that the comparative review and downsizing process implemented at the Tribunal represented "best practice in leadership of a change process". The Tribunal's Career Transition Office has continued to support staff in all aspects of career transition during the period of downsizing and closure of the Tribunal by offering training courses and organizing workshops.

81. The Tribunal is continuing the phased downsizing of posts in accordance with the decrease in judicial activity during the biennium 2016-2017, which will eventually result in the abolition of all positions by 31 December 2017.

82. The Division undertook extensive Umoja conversion activities and ensured that both the Tribunal and the Mechanism successfully took part in the Umoja cluster 4 roll-out.

83. Finally, the Division provided overall administrative support and services to the Mechanism in the areas of human resources, general services, procurement, finance, information technology and security. In anticipation of the Tribunal's closure at the end of 2017, the Tribunal continued to support the Mechanism in the transition to a lean self-standing administration.